



***COMMONWEALTH of VIRGINIA***  
***Office of the Attorney General***  
***Richmond 23219***

Kenneth T. Cuccinelli, II

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
804-371-8947 TDD

**TO: KARIN CLARK**  
Virginia Department of Social Services

**FROM: MICHELLE A. L'HOMMEDIEU**  
Assistant Attorney General

**DATE: April 15, 2013**

**SUBJECT: Proposed Regulations Regarding Adoption of New Standards for Licensed Child Centers, 22 VAC 40-185 *et seq.***

I am in receipt of the attached regulations to adopt new standards for licensed child day care centers 22 VAC 40-185 *et seq.* You have asked the Office of the Attorney General to review and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulations and if the proposed regulations comport with applicable state law.

Pursuant to *2012 Acts of the Assembly*, Chapters 803 and 835, authority to adopt regulatory standards for licensure and operations of child day care centers was transferred to the Board upon the elimination of the Child Day Care Council. Further, Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Among those provisions is Virginia Code § 63.2-1734, which requires the Board to adopt or amend regulations, policies and procedures related to child day care and therapeutic recreation programs in collaboration with certain other state agencies. It appears that

Karin Clark  
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the State Board has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esquire

Attachment

Project 3376 - Proposed

DEPARTMENT OF SOCIAL SERVICES  
Adopt New Standards for Licensed Child Day Centers

CHAPTER 185  
STANDARDS FOR LICENSED CHILD DAY CENTERS (REPEALED)

Part I  
Introduction

**22VAC40-185-10. Definitions. (Repealed.)**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Adult" means any individual 18 years of age or older.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Age groups":

1. "Infant" means children from birth to 16 months.

2. "Toddler" means children from 16 months up to two years.

3. "Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.

4. "School age" means children eligible to attend public school, age five or older by September 30 of that same year. Four- or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program using a curriculum designed to meet the needs and interests of children in the group and is planned for children who enter the program at three through five years of age. The enrollment in the balance mixed-age grouping comprises a relatively even allocation of children in each of three ages (three to six years) and is designed for children and staff to remain together with turnover planned only for the replacement of exiting students with children of ages that maintain the class balance.

"Body fluids" means urine, feces, saliva, blood, nasal discharge, eye discharge, and injury or tissue discharge.

"Camp" means a child day camp that is a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of the same year may be included in a camp for school age children.

"Center" means a child day center.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions (§ 63.2-1715 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.2-1716 of the Code of Virginia;

- ~~2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;~~
- ~~3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;~~
- ~~4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1-1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;~~
- ~~5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;~~
- ~~6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;~~
- ~~7. Education and care programs provided by public schools that are not exempt pursuant to subdivision 6 of this definition shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;~~
- ~~8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), wherein no child attends for more than a total of six hours per week;~~
- ~~9. Practice or competition in organized competitive sports leagues;~~
- ~~10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;~~
- ~~11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day; (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes; and (iii) is receiving or providing services or participating in activities offered by the establishment;~~
- ~~12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young~~

~~Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717 of the Code of Virginia;~~

~~13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments; or~~

~~14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.~~

~~"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.~~

~~Note: This does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.~~

~~"Children with special needs" means children with developmental disabilities, mental retardation, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.~~

~~"Cleaned" means treated in such a way to reduce the amount of filth through the use of water with soap or detergent or the use of an abrasive cleaner on inanimate surfaces.~~

~~"Commissioner" means the Commissioner of the Virginia Department of Social Services.~~

~~"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, mosquito) or environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority.~~

~~"Department" means the Virginia Department of Social Services.~~

~~"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.~~

~~"Evening care" means care provided after 7 p.m. but not through the night.~~

~~"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.~~

~~"Group of children" means the children assigned to a staff member or team of staff members.~~

~~"High school program completion or the equivalent" means an individual has earned a high school diploma or General Education Development (G.E.D.) certificate, or has completed a program of home instruction equivalent to high school completion.~~

~~"Independent contractor" means an entity that enters into an agreement to provide specialized services or staff for a specified period of time.~~

~~"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. The service, education or treatment plan clearly shows documentation and reassessment/evaluation strategies.~~

~~"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.~~

~~"Licensee" means any individual, partnership, association, public agency, or corporation to whom the license is issued.~~

~~"Minor injury" means a wound or other specific damage to the body such as, but not limited to, abrasions, splinters, bites that do not break the skin, and bruises.~~

~~"Overnight care" means care provided after 7 p.m. and through the night.~~

~~"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.~~

~~"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.~~

~~"Physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, licensed nurse (R.N. or L.P.N.), or health assistant acting under the supervision of a physician.~~

~~"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.~~

~~"Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include but not be limited to a child day program, family day home, child day center, boys and girls club, field placement, elementary school, or a faith-based organization.~~

~~"Resilient surfacing" means:~~

~~1. For indoor and outdoor use underneath and surrounding equipment, impact absorbing surfacing materials that comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials' standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004.~~

~~2. Hard surfaces such as asphalt, concrete, dirt, grass or flooring covered by carpet or gym mats do not qualify as resilient surfacing.~~

~~"Sanitized" means treated in such a way to remove bacteria and viruses from inanimate surfaces through using a disinfectant solution (i.e., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat). The surface of item is sprayed or dipped into the disinfectant solution and allowed to air dry after use of the disinfectant solution.~~

~~"Serious injury" means a wound or other specific damage to the body such as, but not limited to, unconsciousness; broken bones; dislocation; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice.~~

~~"Shelter in place" means the facility or building in which a child day center is located.~~

~~"Short-term program" means a child day center that operates less than 12 weeks a year.~~

~~"Special needs child day program" means a program exclusively serving children with special needs.~~

~~"Specialty camps" means those centers that have an educational or recreational focus on one subject such as dance, drama, music, or sports.~~

~~"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.~~

~~"Staff" means administrative, activity, and service personnel including the licensee when the licensee is an individual who works in the center, and any persons counted in the staff-to-children ratios or any persons working with a child without sight and sound supervision of a staff member.~~

~~"Staff positions" are defined as follows:~~

~~1. "Aide" means the individual designated to be responsible for helping the program leader in supervising children and in implementing the activities and services for children. Aides may also be referred to as assistant teachers or child care assistants.~~

~~2. "Program leader" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children. Program leaders may also be referred to as child care supervisors or teachers.~~

~~3. "Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not personally performing these functions.~~

~~4. "Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director. The administrator may perform staff orientation or training or program development functions if the administrator meets the qualifications of 22VAC40-185-190 and a written delegation of responsibility specifies the duties of the program director.~~

~~"Therapeutic child day program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with special needs when an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.~~

~~"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens.~~

~~"Volunteer" means a person who works at the center and:~~

~~1. Is not paid;~~

~~2. Is not counted in the staff-to-children ratios; and~~

~~3. Is in sight and sound supervision of a staff member when working with a child.~~

~~Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.~~

**22VAC40-185-20. Legal base. (Repealed.)**

~~A. Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.~~

~~B. Section 63.2-1734 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services, and facilities for child day centers.~~

~~C. Nothing in this chapter shall be construed to contradict or to negate any provisions of the Code of Virginia which may apply to child day centers.~~

**22VAC40-185-30. Purpose and applicability. (Repealed.)**

~~A. The purpose of these standards is to protect children under the age of 13 who are separated from their parents during a part of the day by:~~

- ~~1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children; and~~
- ~~2. Reducing risks in the environment.~~

~~B. The standards in this chapter apply to child day centers as defined in 22VAC40-185-10 serving children under the age of 13.~~

**22VAC40-185-40. Operational responsibilities. (Repealed.)**

~~A. Applications for licensure shall conform with Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia and the regulation entitled General Procedures and Information for Licensure, 22VAC40-80.~~

~~B. Pursuant to §§ 63.2-1719 and 63.2-1721 and the regulation entitled Background Checks for Child Welfare Agencies, 22VAC40-191, the applicant and any agent at the time of application who is or will be involved in the day-to-day operations of the center or who is or will be alone with, in control of, or supervising one or more of the children, shall be of good character and reputation and shall not be guilty of an offense. Offenses are barrier crimes, conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction, and a founded complaint of child abuse or neglect.~~

~~C. The sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities and to interview his agents, employees, and any child or other person within his custody or control, provided that no private interviews may be conducted with any child without prior notice to the parent of such child.~~

~~D. The license shall be posted in a place conspicuous to the public (§ 63.2-1701 of the Code of Virginia).~~

~~E. The operational responsibilities of the licensee shall include, but not be limited to, ensuring that the center's activities, services, and facilities are maintained in compliance with these standards, the center's own policies and procedures that are required by these standards, and the terms of the current license issued by the department.~~

~~F. Every center shall ensure that any advertising is not misleading or deceptive as required by § 63.2-1713 of the Code of Virginia.~~

~~G. The center shall meet the proof of child identity and age requirements as stated in § 63.2-1809 of the Code of Virginia.~~

~~H. The sponsor shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate.~~

- ~~1. A public sponsor may have equivalent self-insurance that is in compliance with the Code of Virginia.~~

~~2. Evidence of insurance coverage shall be made available to the department's representative upon request.~~

~~I. The center shall develop written procedures for injury prevention.~~

~~J. Injury prevention procedures shall be updated at least annually based on documentation of injuries and a review of the activities and services.~~

~~K. The center shall develop written playground safety procedures which shall include:~~

~~1. Provision for active supervision by staff to include positioning of staff in strategic locations, scanning play activities, and circulating among children; and~~

~~2. Method of maintaining resilient surface.~~

~~L. Hospital-operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe or emergency situation and shall develop a written plan for emergency operations, for submission to and approval by the Department of Social Services.~~

~~M. When children 13 years or older are enrolled in the program and receive supervision in the licensed program, they shall be counted in the number of children receiving care and the center shall comply with the standards for these children.~~

## Part II

### Administration

#### **22VAC40-185-50. General recordkeeping; reports. (Repealed.)**

~~A. Staff and children's records shall be treated confidentially. Exception: Children's records shall be made available to parents on request, unless otherwise ordered by the court.~~

~~B. Records and reports on children and staff required by this chapter shall be maintained and made accessible for two years after termination of services or separation from employment unless specified otherwise.~~

~~C. Records may be kept at a central location except as stated otherwise in these standards.~~

#### **22VAC40-185-60. Children's records. (Repealed.)**

~~A. Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:~~

~~1. Name, nickname (if any), sex, and birth date of the child;~~

~~2. Name, home address, and home phone number of each parent who has custody;~~

~~3. When applicable, work phone number and place of employment of each parent who has custody;~~

~~4. Name and phone number of child's physician;~~

~~5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;~~

~~6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;~~

~~7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;~~

~~8. Chronic physical problems and pertinent developmental information and any special accommodations needed;~~

~~9. Health information as required by 22VAC40-185-130 through 22VAC40-185-150;~~

~~Exception: When a center is located on the same premises where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for~~

~~that child provided the school's records are accessible during the center's hours of operation.~~

~~10. Written agreements between the parent and the center as required by 22VAC40-185-90;~~

~~11. Documentation of child updates and confirmation of up-to-date information in the child's record as required by 22VAC40-185-420 E 3;~~

~~12. Any blanket permission slips and opt out requests;~~

~~13. Previous child day care and schools attended by the child;~~

~~14. Name of any additional programs or schools that the child is concurrently attending and the grade or class level;~~

~~15. Documentation of viewing proof of the child's identity and age; and~~

~~16. First and last dates of attendance.~~

~~B. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.~~

**22VAC40-185-70. Staff records. (Repealed.)**

~~A. The following staff records shall be kept for each staff person:~~

~~1. Name, address, verification of age requirement, job title, and date of employment or volunteering; and name, address and telephone number of a person to be notified in an emergency which shall be kept at the center.~~

~~2. For staff hired after March 1, 1996, documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include:~~

~~a. Dates of contact;~~

~~b. Names of persons contacted;~~

~~c. The firms contacted;~~

~~d. Results; and~~

~~e. Signature of person making call.~~

~~3. Background checks as required by the regulation entitled Background Checks for Licensed Child Day Centers (22VAC15-51).~~

~~4. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position.~~

~~5. First aid, cardiopulmonary resuscitation and other certifications as required by the responsibilities held by the staff member.~~

~~6. Health information as required by 22VAC40-185-160 and 22VAC40-185-170.~~

~~7. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities.~~

~~8. Date of separation from employment.~~

~~B. Exception: Background check records for independent contractors must be kept in accordance with 22VAC15-51-70 of the background check regulation.~~

**~~22VAC40-185-80. Attendance records; reports. (Repealed.)~~**

~~A. The center shall keep a written record of children in attendance each day.~~

~~B. Reports shall be filed and maintained as follows:~~

- ~~1. The center shall inform the commissioner's representative as soon as practicable but not to exceed one working day of the circumstances surrounding the following incidents:
  - ~~a. Death of a child while under the center's supervision; and~~
  - ~~b. Missing child when local authorities have been contacted for help.~~~~
- ~~2. Any suspected incident of child abuse shall be reported in accordance with § 63.2-1509 of the Code of Virginia.~~

**~~22VAC40-185-90. Parental agreements. (Repealed.)~~**

~~A written agreement between the parent and the center shall be in each child's record by the first day of the child's attendance. The agreement shall be signed by the parent and include:~~

- ~~1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately unless the parent states in writing an objection to the provision of such care on religious or other grounds;~~
- ~~2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible if so requested by the center; and~~
- ~~3. A statement that the parent will inform the center within 24 hours or the next business day after his child or any member of the immediate household has developed any reportable communicable disease, as defined by the State Board of Health, except for life-threatening diseases which must be reported immediately.~~

**~~22VAC40-185-100. Enrollment procedures of therapeutic child day programs and special needs child day programs. (Repealed.)~~**

~~Before the child's first day of attendance, there shall be personal communication between the director, or his designee, and the parent to determine:~~

- ~~1. The child's level of general functioning as related to physical, affective/emotional, cognitive and social skills required for participation; and~~
- ~~2. Any special medical procedures needed.~~

**~~22VAC40-185-110. Individual assessment for therapeutic child day programs. (Repealed.)~~**

~~A. An individual assessment completed within six months before the child's attendance or 30 days after the first day of attendance shall be maintained for each child.~~

~~B. An individual assessment shall be reviewed and updated for each child no less than once every 12 months.~~

**~~22VAC40-185-120. Individual service, education or treatment plan for therapeutic child day programs. (Repealed.)~~**

~~A. An individual service, education or treatment plan:~~

- ~~1. Shall be developed for each child by the director or his designee and primary staff responsible for plan implementation;~~
- ~~2. Shall be implemented within 60 days after the first day of the child's attendance.~~

~~B. The child's individual service, education or treatment plan shall be developed, reviewed, and revised every three months and rewritten annually by the director or his designee and primary staff responsible for plan implementation. This shall be done in partnership with the parent, residential care provider or advocate.~~

~~C. A copy of the initial plan and subsequent or amended service, education or treatment plans shall be maintained in the child's record and a copy given to the child's parent.~~

**22VAC40-185-130. Immunizations for children. (Repealed.)**

~~A. The center shall obtain documentation that each child has received the immunizations required by the State Board of Health before the child can attend the center.~~

~~Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and 12VAC5-110-110 of the Regulations for the Immunizations of School Children): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C, or other Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health.~~

~~B. The center shall obtain documentation of additional immunizations once every six months for children under the age of two years.~~

~~C. The center shall obtain documentation of additional immunizations once between each child's fourth and sixth birthdays.~~

**22VAC40-185-140. Physical examinations for children. (Repealed.)**

~~A. Each child shall have a physical examination by or under the direction of a physician:~~

- ~~1. Before the child's attendance; or~~
- ~~2. Within one month after attendance.~~

~~B. If the child has had a physical examination prior to attendance, it shall be within the time period prescribed below:~~

- ~~1. Within two months prior to attendance for children six months of age and younger;~~
- ~~2. Within three months prior to attendance for children aged seven months through 18 months;~~
- ~~3. Within six months prior to attendance for children aged 19 months through 24 months; and~~
- ~~4. Within 12 months prior to attendance for children two years of age through five years of age.~~

~~C. Exceptions:~~

~~1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:~~

- ~~a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.~~
- ~~b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with 22VAC40-185-130 and this section.~~

~~2. Pursuant to subsection D of § 22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.~~

**22VAC40-185-150. Form and content of immunizations and physical examination reports for children. (Repealed.)**

~~A. The current form required by the Virginia Department of Health or a physician's form shall be used to report immunizations received and the results of the required physical examination.~~

~~B. Each report shall include the date of the physical examination and dates immunizations were received and shall be signed by a physician, his designee, or an official of a local health department.~~

**22VAC40-185-160. Tuberculosis screening for staff and independent contractors. (Repealed.)**

~~A. Each staff member and individual from an independent contractor shall submit documentation of a negative tuberculosis screening.~~

~~Documentation of the screening shall be submitted no later than 21 days after employment or volunteering and shall have been completed within 12 months prior to or 21 days after employment or volunteering.~~

~~B. Acceptable forms of documentation of tuberculosis screening are:~~

~~1. A clearance statement signed by a physician, the physician's designee or an official of the local health department. This statement shall include language that the individual does not have any current symptoms of active tuberculosis, does not have either a risk factor for acquiring tuberculosis infection or a risk factor for progression to active tuberculosis disease as defined by the local health department, or has been treated for these conditions in the past, and is currently free of tuberculosis in a communicable form. Individuals who have a risk factor for progression to active tuberculosis disease as defined by the Virginia Department of Health shall submit documentation as stated in subdivision 2 or 3 of this subsection;~~

~~2. The results of a negative tuberculin skin test (TST). The documentation shall include the date the test was given and results of the test and be signed by a physician, physician's designee or an official of the local health department.~~

~~3. The results of a chest x-ray negative for active tuberculosis disease. The documentation shall include the date of the test and location where the examination was performed.~~

~~C. At least every two years from the date of the initial screening or testing, or more frequently if recommended by a licensed physician or the local health department, staff members and individuals from independent contractors shall obtain and submit the results of a follow-up tuberculosis screening as stated in subsection B of this section.~~

~~D. Any staff member or individual from an independent contractor who develops symptoms compatible with active tuberculosis disease, regardless of the date of the last tuberculosis screening or assessment, shall obtain and submit within 14 days a determination of noncontagiousness by a physician or local health department.~~

~~1. Until such determination is made, that staff member may not be permitted to work at the center.~~

~~2. Any staff member or individual from an independent contractor who comes in contact with a known active case of tuberculosis or who tests positive on a tuberculin skin test, regardless of the date of the last tuberculosis screening or assessment, shall submit within 30 days a statement indicating that all needed follow-up for the incident has been completed and that the individual is free of tuberculosis in a communicable form. This statement shall be signed by a physician, physician's designee or an official of the local health department.~~

**22VAC40-185-170. Physical and mental health of staff and volunteers. (Repealed.)**

~~A. When there is evidence that the safety of children may be jeopardized by contact with a staff member or volunteer because of the physical health or mental health of such staff member or volunteer, the licensee shall, at a minimum, prohibit the employee or volunteer from engaging in contact with the children or participation in the food service program until a physician or a clinical psychologist skilled in the diagnosis and treatment of mental illness confirms that any risk has been eliminated or can be reduced to an acceptable level by reasonable accommodations.~~

~~B. The requirement of subsection A of this section should not be construed as a mandatory precondition to any other employment action that an employer may otherwise take.~~

**22VAC40-185-180. General qualifications. (Repealed.)**

~~A. No staff shall be guilty of an offense, as defined in § 63.2-1719 of the Code of Virginia.~~

~~B. Staff shall be:~~

- ~~1. Of good character and reputation;~~
- ~~2. Capable of carrying out assigned responsibilities;~~
- ~~3. Capable of accepting training and supervision; and~~
- ~~4. Capable of communicating effectively both orally and in writing as applicable to the job responsibility.~~

~~C. Staff who work directly with children shall be capable of communicating with emergency personnel.~~

~~D. Staff who drive a vehicle transporting children shall disclose any moving traffic violation that occurred five years prior to or during employment or assignment as a driver.~~

~~E. For therapeutic child day programs and special needs child day programs, staff who work with children shall have knowledge of the groups being served and skills specific to the special needs of the children in care including, but not limited to, functional abilities, accommodations, assessment techniques, behavior management, and medical and health concerns.~~

**22VAC40-185-190. Program director qualifications. (Repealed.)**

~~A. Program directors shall be at least 21 years of age and shall meet one of the following:~~

- ~~1. A graduate degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation from a college or university and six months of programmatic experience;~~
- ~~2. An endorsement or bachelor's degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation from a college or university and one year of programmatic experience;~~
- ~~3. Forty-eight semester hours or 72 quarter hours of college credit from a college or university of which 12 semester hours or 18 quarter hours are in child-related subjects and one year of programmatic experience;~~
- ~~4. Two years of programmatic experience with one year in a staff supervisory capacity and at least one of the following education backgrounds:
  - ~~a. A one-year early childhood certificate from a college or university that consists of at least 30 semester hours;~~
  - ~~b. A child development credential that requires:
    - ~~(1) High school program completion or the equivalent;~~
    - ~~(2) 480 hours working with children in a group which could include a supervised practicum; and~~~~~~

~~(3) Determination of competency in promoting children's development, providing a safe and healthy environment, managing the classroom environment and/or childhood program, and promoting positive and productive relationships with parents/guardians; and~~

~~(4) At least 120 clock hours of child-related training taught by an individual or by an organization with expertise in early childhood teacher preparation provided that the training facilitator:~~

~~(a) Documents the student's mastery and competence;~~

~~(b) Observes the student's application of competence in a classroom setting;~~

~~(c) Has a combination of at least six years of education (leading to a degree or credential in a child-related field) or programmatic experience; and~~

~~(d) Has at least 12 semester hours or 180 clock hours in a child-related field, a child development credential or equivalent, and two years of programmatic experience with one year in a staff supervisory capacity; or~~

~~e. A certification of qualification from an internationally or nationally recognized Montessori organization; or~~

~~5. Three years of programmatic experience including one year in a staff supervisory capacity and fulfilled a high school program completion or the equivalent.~~

~~a. Such programmatic experience shall be obtained in a child day center that offers a staff training program that includes: written goals and objectives; assessment of the employee's participation in the training; and the subject areas of first aid, human growth and development, health and safety issues and behavioral management of children.~~

~~b. Such employees shall complete 120 hours of training during this three-year period and provide documentation of completing the training.~~

~~c. Effective June 1, 2008, program directors shall meet a qualification as stated in subdivisions 1 through 4 of this subsection.~~

~~6. Exception (a): Program directors hired before June 1, 2005, who do not meet the qualifications may continue to be program directors as long as the program director: (i) obtains each year three semester hours or six quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded by June 1, 2009.~~

~~Exception (b): Program directors hired or promoted on or after June 1, 2005, until June 1, 2006, who do not meet the qualifications may continue to be program directors as long as the program director: (i) obtains each year six semester hours or nine quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded no later than June 1, 2007.~~

~~B. Program directors without management experience shall have one college course in a business-related field, 10 clock hours of management training, or one child care management course that satisfactorily covers the management functions of:~~

~~1. Planning;~~

~~2. Budgeting;~~

~~3. Staffing; and~~

~~4. Monitoring.~~

~~\*Note: Management experience is defined as at least six months of on-the-job training in an administrative position that requires supervising, orienting, training, and scheduling staff.~~

~~C. For program directors of therapeutic child day programs and special needs child day programs, education and programmatic experience shall be in the group care of children with special needs.~~

~~D. Notwithstanding subsection A of this section, a person between 19 and 21 years of age may serve as a program director at a short-term program serving only school-age children if the program director has daily supervisory contact by a person at least 21 years of age who meets one of the program director qualification options.~~

### ~~Part III~~

#### ~~Staff Qualifications and Training~~

#### ~~**22VAC40-185-200. Program directors and back-up for program directors. (Repealed.)**~~

~~A. The center shall have a qualified program director or a qualified back-up program director who meets one of the director qualifications who shall regularly be on site at least 50% of the center's hours of operation.~~

~~B. For centers offering multiple shifts, a qualified program director or qualified back-up director shall regularly be on site at least 50% of the day shift and at least two hours during the evening shift and two hours during the night shift.~~

~~C. For centers employing one or more program leaders who are qualified under subsection C of 22VAC40-185-210 but not under subsection A of that section, the qualified program director or qualified back-up program director shall be on site at least 75% of the center's hours of operation.~~

#### ~~**22VAC40-185-210. Program leader qualifications. (Repealed.)**~~

~~A. Program leaders shall be at least 18 years of age, have fulfilled a high school program completion or the equivalent, and meet one of the following:~~

- ~~1. Have one of the program director qualifications in 22VAC40-185-190;~~
- ~~2. Have an endorsement or bachelor's degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation, from a college or university;~~
- ~~3. Have three months of programmatic experience and at least one of the following education backgrounds:
  - ~~a. A one year early childhood certificate from a college or university that consists of at least 30 semester hours;~~
  - ~~b. A child development credential by an organization listed in § 63.2-1738 of the Code of Virginia;~~
  - ~~c. A teaching diploma from an internationally or nationally recognized Montessori organization; or~~~~
- ~~4. Have six months of supervised programmatic experience.
  - ~~a. Within six months before being promoted or beginning work or one month after being promoted or beginning work, a minimum of 12 hours of training shall be received related to the care of children, including but not limited to:
    - ~~(1) Child development; \_\_\_\_\_~~
    - ~~(2) Playground safety;~~
    - ~~(3) Health and safety issues; and~~
    - ~~(4) Preventing and reporting child abuse and neglect.~~~~
  - ~~b. Such training may take place on site while not supervising children. Such training hours shall increase according to the following:~~~~

<del>(1) Program leaders hired or promoted after June 1, 2006</del>	<del>16 hours</del>
<del>(2) Program leaders hired or promoted after June 1, 2007</del>	<del>20 hours</del>
<del>(3) Program leaders hired or promoted after June 1, 2008</del>	<del>24 hours</del>

~~B. For program leaders of therapeutic child day programs and special needs child day programs, at least three months of programmatic experience shall be in the group care of children with special needs.~~

~~C. Notwithstanding the experience requirements in subsection A of this section, program leaders at short-term programs may have only one season of programmatic experience, provided that this experience shall include at least 200 hours, of which up to 24 hours can be formal training, working directly with children in a group.~~

**22VAC40-185-220. Aides. (Repealed.)**

~~Aides shall be at least 16 years of age.~~

**22VAC40-185-230. Independent contractors; volunteers. (Repealed.)**

~~A. Individuals from independent contractors shall not be counted in the staff-to-children ratios unless they meet the qualifications for the applicable position.~~

~~B. Individuals from independent contractors who do not meet staff qualifications shall, when in the presence of children, be within sight and sound supervision of a staff member.~~

~~C. Volunteers who work with children shall be at least 13 years of age.~~

**22VAC40-185-240. Staff training and development. (Repealed.)**

~~A. Staff shall receive the following training by the end of their first day of assuming job responsibilities:~~

- ~~1. Job responsibilities and to whom they report;~~
- ~~2. The policies and procedures listed in subsection B of this section and 22VAC40-185-420 A that relate to the staff member's responsibilities;~~
- ~~3. The center's playground safety procedures unless the staff member will have no responsibility for playground activities or equipment;~~
- ~~4. Recognizing child abuse and neglect and the legal requirements for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;~~
- ~~5. Confidential treatment of personal information about children in care and their families; and~~
- ~~6. The standards in this chapter that relate to the staff member's responsibilities.~~

~~B. By the end of the first day of supervising children, staff shall be provided in writing with the information listed in 22VAC40-185-420 A and the following:~~

- ~~1. Procedures for supervising a child who may arrive after scheduled classes or activities including field trips have begun;~~
- ~~2. Procedures to confirm absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center;~~
- ~~3. Procedures for identifying where attending children are at all times, including procedures to ensure that all children are accounted for before leaving a field trip site and upon return to the center;~~
- ~~4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies and general emergencies;~~

5. Policy for any administration of medication; and
6. Procedures for response to natural and man-made disasters.

C. Program directors and staff who work directly with children shall annually attend 10 hours of staff development activities that shall be related to child safety and development and the function of the center. Such training hours shall increase according to the following:

1. June 1, 2006 - 12 hours
2. June 1, 2007 - 14 hours
3. June 1, 2008 - 16 hours

4. Staff development activities to meet this subsection may include up to two hours of training in first aid or cardiopulmonary resuscitation. Staff development activities to meet this subsection may not include rescue breathing and first responder as required by 22VAC40-185-530 and training in medication administration and daily health observation of children as required by subsection D of this section.

5. Exception (a): Staff who drive a vehicle transporting children and do not work with a group of children at the center do not need to meet the annual training requirement.

Exception (b): Parents who participate in cooperative preschool centers shall complete four hours of orientation training per year.

Exception (c): Staff who are employed at a short-term program shall obtain 10 hours of staff training per year.

D. 1. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer prescribed medications, the administration shall be performed by a staff member or independent contractor who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; or administration shall be performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

a. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.

b. Staff required to have the training shall be retrained at three-year intervals.

2. The decision to administer medicines at a facility may be limited by center policy to:

a. Prescribed medications;

b. Over-the-counter or nonprescription medications; or

c. No medications except those required for emergencies or by law.

3. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer over-the-counter medications other than topical skin gel, cream, or ointment, the administration must be performed by a staff member or independent contractor who has satisfactorily completed a training course developed or approved by the Department of Social Services in consultation with the Department of Health and the Board of Nursing and taught by an R.N., L.P.N., physician, or pharmacist; or performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

a. The course, which shall include competency guidelines, shall reflect currently accepted safe medication administration practices, including instruction and practice in topics such as, but not limited to, reading and following manufacturer's instructions; observing relevant laws, policies and regulations; and demonstrating

~~knowledge of safe practices for medication storage and disposal, recording and reporting responsibilities, and side effects and emergency recognition and response.~~

~~b. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.~~

~~c. Staff required to have the training shall be retrained at three-year intervals.~~

~~4. Any child for whom emergency medications (such as but not limited to albuterol, glucagon, and epipen) have been prescribed shall always be in the care of a staff member or independent contractor who meets the requirements in subdivision 1 of this subsection.~~

~~5. There shall always be at least one staff member on duty who has obtained within the last three years instruction in performing the daily health observation of children.~~

~~6. Daily health observation training shall include:~~

~~a. Components of daily health check for children;~~

~~b. Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;~~

~~c. Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;~~

~~d. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and~~

~~e. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's (OSHA) Bloodborne Pathogens regulation.~~

~~E. Before assuming job responsibilities, staff who work with children in therapeutic child day programs and special needs child day programs shall receive training in:~~

~~1. Universal precautions procedures;~~

~~2. Activity adaptations;~~

~~3. Medication administration;~~

~~4. Disabilities precautions and health issues; and~~

~~5. Appropriate intervention strategies.~~

~~F. For therapeutic child day programs and special needs child day programs, staff who work directly with children shall annually attend 24 hours of staff development activities. At least eight hours of this training shall be on topics related to the care of children with special needs.~~

**22VAC40-185-250. Approval from other agencies; requirements prior to initial licensure. (Repealed.)**

~~A. Before issuance of the first license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the center to the licensing representative:~~

~~1. Approval by the authority having jurisdiction that each building meets building and fire codes or that a plan of correction has been approved; and~~

~~Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision 1 of this subsection when housing a center only serving children two and a half years of age or older.~~

~~2. Approval from the local health department, or approval of a plan of correction, for meeting requirements for:~~

- a. ~~Water supply;~~
- b. ~~Sewage disposal system; and~~
- c. ~~Food service, if applicable.~~

~~B. For buildings built before 1978, the following shall be submitted before the initial license is issued:~~

- ~~1. A written statement from a person licensed in Virginia as an asbestos inspector and management planner as required by § 63.2-1811 of the Code of Virginia and the requirements of the Asbestos Hazard Emergency Response Act (15 USC § 2641 et seq.); and~~
- ~~2. A written statement that the response actions to abate any risk to human health have been or will be initiated in accordance with a specific schedule and plan as recommended by the asbestos management planner in accordance with § 63.2-1811 of the Code of Virginia.~~

~~C. A notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall be posted.~~

~~Exception: The provisions of subsections B and C of this section do not apply to centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.~~

~~D. Before the first license is issued, camps shall notify the responsible fire department and the responsible emergency medical service of the camp location and hours of operation.~~

**~~22VAC40-185-260. Approval from other agencies; requirements subsequent to initial licensure. (Repealed.)~~**

~~A. The center shall provide to the licensing representative an annual fire inspection report from the appropriate fire official having jurisdiction.~~

~~Exception: If a center is located in a building currently housing a public or private school, the school's annual fire inspection report shall be accepted.~~

~~B. After the first license, annual approval from the health department shall be provided, or approvals of a plan of correction, for meeting requirements for:~~

- ~~1. Water supply;~~
- ~~2. Sewage disposal system; and~~
- ~~3. Food service, if applicable.~~

~~C. For those buildings where asbestos containing materials are detected and not removed:~~

- ~~1. A signed, written statement that the center is following the recommendations of the management plan shall be submitted to the department before subsequent licenses are issued; and~~
- ~~2. The notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall continue to be posted.~~
- ~~3. Exception: The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.~~

**~~22VAC40-185-270. Building maintenance. (Repealed.)~~**

~~A. Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe and operable condition. Unsafe conditions shall include, but not be limited to, splintered, cracked or otherwise deteriorating wood; chipped or peeling paint; visible cracks, bending or~~

~~warping, rusting or breakage of any equipment; head entrapment hazards; and protruding nails, bolts or other components that could entangle clothing or snag skin.~~

~~B. Heat shall be supplied from a heating system approved in accordance with the Uniform Statewide Building Code (USBC, 13VAC5-62) except for camps. The heating system shall:~~

- ~~1. Be installed to prevent accessibility of children to the system; and~~
- ~~2. Have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.~~
- ~~3. Exception: In case of emergency, portable heaters may be used in accordance with the manufacturer's instructions.~~

~~C. In inside areas occupied by children, the temperature shall be maintained no lower than 68°F.~~

~~D. Fans or other cooling systems shall be used when the temperature of inside areas occupied by children exceeds 80°F.~~

~~E. Drinking fountains or individual disposable cups with safe drinking water shall be accessible at all times.~~

~~F. Equipment shall include, but not be limited to, the following:~~

- ~~1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown; and~~
- ~~2. An in-service, nonpay telephone.~~

#### **22VAC40-185-280. Hazardous substances and other harmful agents. (Repealed.)**

~~A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.~~

~~B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept in a locked place using a safe locking method that prevents access by children.~~

- ~~1. If a key is used, the key shall not be accessible to the children.~~
- ~~2. Exception: Cleaning supplies to clean and sanitize the diapering area or toilet chairs do not need to be kept locked during diapering or toilet training time as long as they are inaccessible to children.~~

~~C. Pesticides or insecticides shall not be stored in areas used by children or in areas used for food preparation or storage.~~

~~D. Cleaning and sanitizing materials shall not be located above food, food equipment, utensils or single-service articles and shall be stored in areas physically separate from food.~~

~~E. Cleaning materials (e.g., detergents, sanitizers and polishes) and insecticides/pesticides shall be stored in areas physically separate from each other.~~

~~F. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.~~

~~G. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.~~

~~H. Cosmetics, medications, or other harmful agents shall not be stored in areas, purses or pockets that are accessible to children.~~

~~I. Hazardous art and craft materials shall not be used with children.~~

~~J. Smoking shall be prohibited in the interior of a center that is not used for residential purposes.~~

~~K. In residential areas of the center and outside the center, smoking shall be prohibited in the presence of children.~~

**~~22VAC40-185-290. General physical plant requirements for centers serving children of preschool age or younger. (Repealed.)~~**

~~In areas used by children of preschool age or younger, the following shall apply:~~

- ~~1. Guardrails and handrails shall be provided in accordance with the USBC (13VAC5-62) in effect at time of first occupancy or construction.~~
- ~~2. Fans, when used, shall be out of reach of children and cords shall be secured so as not to create a tripping hazard.~~
- ~~3. Electrical outlets shall have protective covers that are of a size that cannot be swallowed by children.~~

**~~22VAC40-185-300. General physical plant requirements for centers serving school age children. (Repealed.)~~**

~~A. Any building which is currently approved for school occupancy and which houses a school during the school year shall be considered to have met the building requirements in this regulation when housing a center only serving school age children.~~

~~B. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a nationally recognized inspection agency and be used in accordance with the manufacturer's specifications, except for charcoal and wood burning cooking equipment.~~

~~C. No cooking or heating shall occur in tents except as provided by the USBC (13VAC5-62).~~

**~~22VAC40-185-310. Areas. (Repealed.)~~**

~~A. Indoor space shall be measured inside wall-to-wall excluding spaces not routinely used by children as referenced in subdivisions 1 and 2 of this subsection:~~

- ~~1. Areas not routinely used for children's activities shall not be calculated as available space.~~
- ~~2. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets.~~

~~B. There shall be 25 square feet of indoor space available per child until subdivisions 1 and 2 of this subsection take effect.~~

- ~~1. Effective June 1, 2008, applicants must have 35 square feet of indoor wall-to-wall space per child.~~
- ~~2. Current licensees and subsequent licensees at currently licensed facilities may continue to provide 25 square feet per child.~~
- ~~3. New additions shall have 35 square feet of indoor wall-to-wall space per child effective June 1, 2008.~~

~~C. Space in areas used by infants shall be calculated separately from space for older children. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.~~

~~D. Camps for school age children are not required to meet this space requirement. However, when weather prevents outdoor activities, the required indoor space per child shall be provided either at the program site or at a predesignated, approved location off site.~~

~~E. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.~~

~~F. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children that has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This space may be counted as part of the 75 square feet required in subsection B of this section.~~

~~G. A separate space shall be designated for children who are ill or injured.~~

~~Part IV  
Physical Plant~~

**22VAC40-185-320. Restroom areas and furnishings. (Repealed.)**

~~A. Centers shall be provided with at least two toilets and two sinks.~~

~~B. Each restroom area provided for children shall:~~

- ~~1. Be within a contained area, readily available and within the building used by the children (Exception: Restrooms used by school age children at camps are not required to be located within the building);~~
- ~~2. Have toilets that are flushable;~~
- ~~3. Have sinks located near the toilets and that are supplied with running warm water that does not exceed 120°F (Exception: Camps are exempt from the requirement that running water be warm); and~~
- ~~4. Be equipped with soap, toilet paper, and disposable towels or an air dryer within reach of children.~~

~~C. For restrooms available to males, urinals shall not be substituted for more than one-half the required number of toilets.~~

~~D. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them.~~

~~Exception: Primitive camps are not required to have a toilet with privacy for staff.~~

~~E. Centers shall be provided with at least one toilet and one sink per 20 preschool children and at least one standard size toilet and one sink per 30 school age children. When sharing restroom areas with other programs, the children in those programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply.~~

~~F. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platforms or sets of steps shall be provided.~~

~~G. School age children of the opposite sex shall not use the same restroom at the same time.~~

~~H. A restroom used for school age children that contains more than one toilet shall have at least one toilet enclosed.~~

~~I. Restrooms used by school age children at primitive camps are not required to have:~~

- ~~1. Sinks, if adequate water, supplies, and equipment for hand washing are available; and~~
- ~~2. Flushable toilets, if the number of sanitary privies or portable toilets constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health meets the toilet ratio stated in subsection E of this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.~~

**22VAC40-185-330. Play areas. (Repealed.)**

~~A. Playgrounds shall be located and designed to protect children from hazards.~~

~~B. Where playground equipment is provided, resilient surfacing shall comply with minimum safety standards when tested in accordance with the procedures described in the American~~

~~Society for Testing and Materials standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004, and shall be under equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. A fall zone shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. Falls zones shall not include barriers for resilient surfacing. Where steps are used for accessibility, resilient surfacing is not required.~~

~~C. Ground supports shall be covered with materials that protect children from injury.~~

~~D. Swing seats shall be constructed with flexible material.~~

~~1. Exceptions: Nonflexible molded swing seats may be used only in a separate infant or toddler play area.~~

~~2. Swings made specifically for a child with a special need shall be permitted in any area as long as a staff member is positioned to see and protect other children who might walk into the path of the swing.~~

~~E. Sandboxes with bottoms which prevent drainage shall be covered when not in use.~~

~~F. A shady area shall be provided on playgrounds during the months of June, July, and August.~~

~~EXCEPTION: The requirements of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.~~

#### Part V

#### Staffing and Supervision

#### **22VAC40-185-340. Supervision of children. (Repealed.)**

~~A. When staff are supervising children, they shall always ensure their care, protection, and guidance.~~

~~B. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.~~

~~C. During the stated hours of operation, there always shall be on the premises and on field trips when one or more children are present one staff member who meets the qualifications of a program leader or program director and an immediately available staff member, volunteer or other employee who is at least 16 years of age, with direct means for communication between the two of them. The volunteer or other employee shall have received instruction in how to contact appropriate authorities if there is an emergency.~~

~~D. In each grouping of children at least one staff member who meets the qualifications of a program leader or program director shall be regularly present. Such a program leader shall supervise no more than two aides.~~

~~E. Exception: A program leader is not required in each grouping of children during the first and last hour of operation when a center operates more than six hours per day and during the designated rest period if the following are met: (i) there is a staff member in the group who is over 18 years of age and has at least three months of programmatic experience at the center;~~

~~(ii) there is an additional staff person on site who meets program leader qualifications, is not counted in the staff-to-children ratios and is immediately available to help if needed; and (iii) there is a direct means for communicating between these two staff members.~~

~~F. Children under 10 years of age always shall be within actual sight and sound supervision of staff, except that staff need only be able to hear a child who is using the restroom provided that:~~

~~1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children; and~~

~~2. Staff check on a child who has not returned from the restroom after five minutes. Depending on the location and layout of the restroom, staff may need to provide intermittent sight supervision of the children in the restroom area during this five-minute period to assure the safety of children and to provide assistance to children as needed.~~

~~G. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when the following requirements are met:~~

~~1. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);~~

~~2. Staff are nearby so they can provide immediate intervention if needed;~~

~~3. There is a system to ensure that staff know where the children are and what they are doing;~~

~~4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and~~

~~5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.~~

~~H. When the outdoor activity area is not adjacent to the center, there shall be at least two staff members on the outdoor activity area whenever one or more children are present.~~

~~I. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.~~

~~J. Staff shall not allow a child to leave the center unsupervised.~~

### **22VAC40-185-350. Staff-to-children ratio requirements. (Repealed.)**

~~A. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.~~

~~B. A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.~~

~~C. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.~~

~~D. During the designated rest period and the designated sleep period of evening and overnight care programs, the ratio of staff to children may be double the number of children to each staff required by subdivisions E 2 through 4 and 7 of this section if:~~

~~1. A staff person is within sight and sound of the resting/sleeping children;~~

~~2. Staff counted in the overall rest period ratio are within the building and available to ensure safe evacuation in an emergency; and~~

~~3. An additional person is present at the center to help, if necessary.~~

~~E. The following ratios of staff to children are required wherever children are in care:~~

- ~~1. For children from birth to the age of 16 months: one staff member for every four children;~~
- ~~2. For children 16 months old to two years: one staff member for every five children;~~
- ~~3. For two-year-old children: one staff member for every eight children effective June 1, 2006;~~
- ~~4. For children from three years to the age of eligibility to attend public school, five years by September 30: one staff member for every 10 children effective June 1, 2006;~~
- ~~5. For children from age of eligibility to attend public school through eight years, one staff member for every 18 children; and~~
- ~~6. For children from nine years through 12 years, one staff member for every 20 children effective June 1, 2006.~~
- ~~7. Notwithstanding subdivisions 4 and 5 of this subsection and subsection C of this section, the ratio for balanced mixed-age groupings of children shall be one staff member for every 14 children, provided:
  - ~~a. If the program leader has an extended absence, there shall be sufficient substitute staff to meet a ratio of one staff member for every 12 children.~~
  - ~~b. The center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.~~
  - ~~c. The program leader has received training in classroom management of balanced mixed-age groupings of at least eight hours.~~~~

~~F. With a parent's written permission and a written assessment by the program director and program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level and the staff-to-children ratio shall be for the established age group.~~

- ~~1. If such developmental placement is made for a child with a special need, a written assessment by a recognized agency or professional shall be required at least annually. These assignments are intended to be a permanent new group and staff members for the child.~~
- ~~2. A center may temporarily reassign a child from his regular group and staff members for reasons of administrative necessity but not casually or repeatedly disrupt a child's schedule and attachment to his staff members and group.~~

~~G. For therapeutic child day programs, in each grouping of children of preschool age or younger, the following ratios of staff to children are required according to the special needs of the children in care:~~

- ~~1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.~~
- ~~2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities, or with autism: one staff member to four children.~~
- ~~3. For children diagnosed as educable mentally retarded (EMR) or developmentally delayed or diagnosed with attention deficit/hyperactivity disorder (AD/HD): one staff member to five children.~~
- ~~4. For children diagnosed with specific learning disabilities: one staff member to six children.~~

~~5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.~~

~~6. Note: Whenever 22VAC40-185-350 E requires more staff than 22VAC40-185-350 G because of the children's ages, 22VAC40-185-350 E shall take precedence over 22VAC40-185-350 G.~~

~~H. For therapeutic child day programs, in each grouping of school age children, the following ratios of staff to children are required according to the special needs of the children in care:~~

~~1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.~~

~~2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities; attention deficit/hyperactivity disorder (AD/HD), or other health impairments: one staff member to five children.~~

~~3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to six children.~~

~~4. For children diagnosed with specific learning disabilities, or speech or language impairments: one staff member to eight children.~~

~~5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.~~

#### Part VI Programs

#### **22VAC40-185-360. Daily activities. (Repealed.)**

~~A. The variety of daily activities for all age groups shall be age and stage appropriate and provide opportunities for teacher-directed, self-directed, and self-chosen tasks and activities; a balance of active and quiet activities; individual and group activities; and curiosity and exploration.~~

~~Exception: Specialty camps do not need to provide opportunities for self-chosen tasks and curiosity and exploration.~~

~~B. For a child who cannot move without help, staff shall offer to change the places and position of the child at least every 30 minutes or more frequently depending on the child's individual needs.~~

~~C. Children shall be allowed to sleep or rest as individually needed.~~

~~D. For a child in a therapeutic child day program, daily activities shall be in accordance with the program's individual plan for such child.~~

#### **22VAC40-185-370. Daily activities for infants. (Repealed.)**

~~There shall be a flexible daily schedule for infants based on their individual needs. During the day, infants shall be provided with:~~

~~1. Sleep as needed.~~

~~a. When an infant is placed in his crib, he shall be placed on his back (supine).~~

~~b. When an infant is able to easily turn over from the back (supine) to the belly (prone) position and he is placed in his crib, he shall still be put on his back (supine) but allowed to adopt whatever position he prefers. This applies unless otherwise directed by the infant's physician in writing.~~

- ~~c. If the side position is used, caregivers shall bring the dependent arm forward to lessen the likelihood of the infant rolling into a belly (prone) position.~~
  - ~~d. Resting or sleeping infants shall be individually checked every 15-20 minutes.~~
  - ~~e. An infant who falls asleep in a play space specified in subdivision 5 a of this section may remain in that space if comfortable and safe.~~
- ~~2. Food as specified in 22VAC40-185-560 and 22VAC40-185-570.~~
- ~~3. Outdoor time if weather and air quality allow based upon the Air Quality Color Code Chart as provided by the Department of Environmental Quality.~~
- ~~4. Comfort as needed.~~
- ~~5. Play spaces.~~
  - ~~a. Play spaces may include, but are not limited to, cribs, infant seats, play yards, exercise chairs or saucers (but not walkers), infant swings, high chairs, and floor space.~~
  - ~~b. The variety of play spaces shall cumulatively offer:~~
    - ~~(1) Room for extensive movement (rolling, crawling, or walking) and exploration;~~
    - ~~(2) A diversity of sensory and perceptual experiences; and~~
    - ~~(3) Equipment and toys that support large and small motor development.~~
  - ~~c. Staff shall provide frequent opportunities for infants to creep, crawl, toddle and walk.~~
  - ~~d. Infants shall be protected from older children.~~
  - ~~e. Staff shall provide awake infants not playing on the floor or ground a change in play space at least every 30 minutes or more often as determined by the individual infant's needs.~~
  - ~~f. Staff shall change the position of an awake infant playing on the floor or ground and the selection of toys available to the infant every 30 minutes or more often as determined by the individual infant's needs.~~
  - ~~g. Infants, who cannot turn themselves over and are awake, shall be placed on their stomachs a total of 30 minutes each day to facilitate upper body strength and to address misshapen head concerns.~~
- ~~6. Stimulation and language development activities, including but not limited to staff reading, talking to, showing pictures to, naming objects for, playing with and engaging in positive interactions (such as smiling, cuddling, and making eye contact) with infants.~~

**22VAC40-185-380. Daily activities for toddlers and preschoolers. (Repealed.)**

~~A. There shall be a posted daily schedule that allows for flexibility as children's needs require. The daily schedule need not apply on days occupied a majority of the time by a field trip or other special event. The daily schedule shall include opportunities for:~~

- ~~1. Outdoor activity, weather and air quality allowing, for at least:~~
  - ~~a. Fifteen minutes per day or session if the center operates up to three hours per day or session;~~
  - ~~b. Thirty minutes per day or session if the center operates between three and five hours per day or session; or~~
  - ~~c. One hour per day or session if the center operates more than five hours per day or session.~~
- ~~2. Sleep or rest.~~

~~a. Centers operating five or more hours per day shall have a designated rest period for at least one hour but no more than two hours.~~

~~(1) Cribs, cots, beds, or mats shall be used.~~

~~(2) After the first 30 minutes, children not sleeping may engage in quiet activities.~~

~~b. A child who falls asleep in a place other than his designated sleeping location may remain in that space if comfortable and safe.~~

~~c. Sleeping toddlers shall be individually checked every 30 minutes.~~

~~3. Meals and snacks as specified in 22VAC40-185-560 and 22VAC40-185-570.~~

~~4. Small and large motor activities, language and communication experiences, sensory experiences, art or music activities, and play acting or social living.~~

~~B. Staff shall encourage language development by having conversations with children that give them time to initiate and respond, by labeling and describing objects and events, having storytelling time and by expanding the children's vocabulary.~~

#### **22VAC40-185-390. Daily activities for school age children. (Repealed.)**

~~A. Before or after school, the center shall provide an opportunity for children to do homework or projects or hobbies in a suitable area. In the afternoon, there shall be an opportunity for large motor activities at least 25% of the time.~~

~~B. On nonschool days, the daily activity shall include opportunities for large motor activities at least 25% of the time; small motor activities; projects, hobbies, or homework in a suitable place; art or music activities; outdoor activity in accordance with 22VAC40-185-380 A 1 and food as specified in 22VAC40-185-560 and 22VAC40-185-570.~~

~~Exception: Specialty camps are not required to meet the requirements of this subsection.~~

#### **22VAC40-185-400. Behavioral guidance. (Repealed.)**

~~A. In order to promote the child's physical, intellectual, emotional, and social well-being and growth, staff shall interact with the child and one another to provide needed help, comfort, support and:~~

~~1. Respect personal privacy;~~

~~2. Respect differences in cultural, ethnic, and family backgrounds;~~

~~3. Encourage decision-making abilities;~~

~~4. Promote ways of getting along;~~

~~5. Encourage independence and self-direction; and~~

~~6. Use consistency in applying expectations.~~

~~B. Behavioral guidance shall be constructive in nature, age and stage appropriate, and shall be intended to redirect children to appropriate behavior and resolve conflicts.~~

#### **22VAC40-185-410. Forbidden actions. (Repealed.)**

~~The following actions or threats thereof are forbidden:~~

~~1. Physical punishment, striking a child, roughly handling or shaking a child, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, or exercise as punishment;~~

~~2. Enclosure in a small confined space or any space that the child cannot freely exit himself; however, this does not apply to the use of equipment such as cribs, play yards, high chairs, and safety gates when used with children preschool age or younger for their intended purpose;~~

~~3. Punishment by another child;~~

- ~~4. Separation from the group so that the child is away from the hearing and vision of a staff member;~~
- ~~5. Withholding or forcing of food or rest;~~
- ~~6. Verbal remarks which are demeaning to the child;~~
- ~~7. Punishment for toileting accidents; and~~
- ~~8. Punishment by applying unpleasant or harmful substances.~~

**22VAC40-185-420. Parental involvement. (Repealed.)**

~~A. Before the child's first day of attending, parents shall be provided in writing the following:~~

- ~~1. The center's philosophy and any religious affiliation;~~
- ~~2. Operating information, including the hours and days of operation and holidays or other times closed, and the phone number where a message can be given to staff;~~
- ~~3. The center's transportation policy;~~
- ~~4. The center's policies for the arrival and departure of children, including procedures for verifying that only persons authorized by the parent are allowed to pick up the child, picking up children after closing, when a child is not picked up for emergency situations including but not limited to inclement weather or natural disasters;~~
- ~~5. The center's policy regarding any medication or medical procedures that will be given;~~
- ~~6. The center's policy regarding application of:
  - ~~a. Sunscreen;~~
  - ~~b. Diaper ointment or cream; and~~
  - ~~c. Insect repellent.~~~~
- ~~7. Description of established lines of authority for staff;~~
- ~~8. Policy for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;~~
- ~~9. The custodial parent's right to be admitted to the center as required by § 63.2-1813 of the Code of Virginia;~~
- ~~10. Policy for communicating an emergency situation with parents;~~
- ~~11. The appropriate general daily schedule for the age of the enrolling child;~~
- ~~12. Food policies;~~
- ~~13. Discipline policies including acceptable and unacceptable discipline measures; and~~
- ~~14. Termination policies.~~

~~B. Staff shall promptly inform parents when persistent behavioral problems are identified; such notification shall include any disciplinary steps taken in response.~~

~~C. A custodial parent shall be admitted to any child day program. Such right of admission shall apply only while the child is in the child day program (§ 63.2-1813 of the Code of Virginia).~~

~~D. The center shall provide opportunities for parental involvement in center activities.~~

~~E. Communication.~~

- ~~1. For each infant, the center shall post a daily record which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:
  - ~~a. The amount of time the infant slept;~~
  - ~~b. The amount of food consumed and the time;~~
  - ~~c. A description and time of bowel movements;~~~~

- d. Developmental milestones; and
  - e. For infants, who are awake and cannot turn over by themselves, the amount of time spent on their stomachs.
2. If asked by parents, staff shall provide feedback about daily activities, physical well-being, and developmental milestones.
  3. Parents shall be provided at least semiannually in writing information on their child's development, behavior, adjustment, and needs.
    - a. Staff shall provide at least semiannual scheduled opportunities for parents to provide feedback on their children and the center's program.
    - b. Staff shall request at least annually parent confirmation that the required information in the child's record is up to date.
    - c. Such sharing of information shall be documented.
    - d. Short-term programs (as defined in 22VAC40-185-10) are exempt from this requirement.
  4. Parents shall be informed of reasons for termination of services.

**22VAC40-185-430. Equipment and materials. (Repealed.)**

A. Furnishings, equipment, and materials shall be of an appropriate size for the child using it.

B. Materials and equipment available shall be age and stage appropriate for the children and shall include an adequate supply as appropriate for each age group of arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.

C. Play equipment used by children shall meet the following requirements:

1. Openings above the ground or floor which allow a 3-1/2 inch by 6-1/4 inch rectangle to fit through shall also allow a nine-inch circle to fit through;
2. S-hooks where provided may not be open more than the thickness of a penny; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

D. The unenclosed climbing portion of slides and climbing equipment used by toddlers and preschool children shall not be more than seven feet high and must be located over resilient surfacing where outdoors, and shall not be more than five feet high where indoors.

E. Centers may not install after June 1, 2005, any slide or climbing equipment to be used by preschoolers or toddlers when the climbing portion of the equipment is more than six feet in height.

F. The climbing portions of indoor slides and climbing equipment over 18 inches shall not be over bare flooring.

G. The climbing portions of indoor slides and climbing equipment 36 inches or more shall be located over a resilient surface.

H. Trampolines may not be used.

EXCEPTION: The requirements of subsections A through H of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

I. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

~~J. Disposable products shall be used once and discarded.~~

~~K. Provision shall be made for an individual place for each child's personal belongings.~~

~~L. Infant walkers shall not be used.~~

~~M. Play yards where used shall:~~

- ~~1. Meet the Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements and shall retain the manufacturer's label documenting product compliance with current safety standards at the time they were manufactured;~~
- ~~2. Not be used after recalled;~~
- ~~3. Not use any pillows or filled comforters;~~
- ~~4. Not be used for the designated sleeping areas;~~
- ~~5. Not be occupied by more than one child; and~~
- ~~6. Be sanitized each day of use or more often as needed.~~

~~N. Upon being informed that a product has been recalled, center staff shall remove the item from the center.~~

~~O. Where portable water coolers are used, they shall be of cleanable construction, maintained in a cleaned condition, kept securely closed and so designed that water may be withdrawn from the container only by water tap or faucet.~~

~~P. Drinking water which is transported to camp sites shall be in closed containers.~~

~~Q. Therapeutic child day programs and special needs child day programs serving children who use wheelchairs shall provide cushioned vinyl-covered floormats for use when activities require children to be out of their wheelchairs.~~

#### **22VAC40-185-440. Cribs, cots, rest mats, and beds. (Repealed.)**

~~A. Cribs, cots, rest mats or beds shall be provided for children during the designated rest period and not be occupied by more than one child at a time.~~

~~B. Cribs, cots, rest mats, and beds shall be identified for use by a specific child.~~

~~C. Double decker cribs, cots, or beds, or other sleeping equipment when stacked shall not be permitted.~~

~~D. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat producing appliance.~~

~~E. There shall be at least 12 inches of space between occupied cots, beds, and rest mats.~~

~~Exception: Twelve inches of space are not required where cots, beds, or rest mats are located adjacent to a wall or a divider as long as one side is open at all times to allow for passage.~~

~~F. If rest mats are used, they shall have cushioning and be sanitized on all sides weekly or before use by another child.~~

~~G. Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or mat.~~

~~H. Cribs shall meet the following requirements:~~

- ~~1. They shall meet the Consumer Product Safety Commission Standards at the time they were manufactured;~~
- ~~2. They shall not have been recalled;~~
- ~~3. There shall be no more than six centimeters or 2-3/8 inches of space between slats;~~
- ~~4. There shall be no more than one inch between the mattress and the crib; and~~

~~5. End panel cut-outs in cribs shall be of a size not to cause head entrapment.~~

~~I. Cribs shall be placed where objects outside the crib such as cords from blinds or curtains are not within reach of infants or toddlers.~~

~~J. There shall be at least:~~

~~1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall; and~~

~~2. Thirty inches of space between service sides of occupied cribs and other furniture where that space is the walkway for staff to gain access to any occupied crib.~~

~~K. Crib sides shall be up and the fastenings secured when a child is in the crib, except when a staff member is giving the child immediate attention.~~

~~L. Pillows and filled comforters shall not be used by children under two years of age.~~

~~M. Use of crib bumper pads shall be prohibited.~~

~~N. Toys or objects hung over an infant in a crib and crib gyms that are strung across the crib may not be used for infants over five months of age or infants who are able to push up on their hands and knees.~~

#### **22VAC40-185-450. Linens. (Repealed.)**

~~A. Cribs, cots, mats and beds used by children other than infants during the designated rest period or during evening and overnight care shall have linens consisting of a top cover and a bottom cover or a one-piece covering which is open on three edges. Cribs when being used by infants shall have a bottom cover.~~

~~B. Linens shall be assigned for individual use.~~

~~C. Linens shall be clean and washed at least weekly.~~

~~1. Crib sheets shall be clean and washed daily.~~

~~2. When centers wash the linens, the water shall be above 140°F or the dryer shall heat the linens above 140°F as verified by the manufacturer or a sanitizer shall be used according to the manufacturer's instructions.~~

~~D. Pillows when used shall be assigned for individual use and covered with pillow cases.~~

~~E. Mattresses when used shall be covered with a waterproof material which can be cleaned and sanitized.~~

#### **22VAC40-185-460. Swimming and wading activities; staff and supervision. (Repealed.)**

~~A. The staff-to-children ratios required by 22VAC40-185-350 E, G, and H shall be maintained while children are participating in swimming or wading activities.~~

~~1. Notwithstanding the staff-to-children ratios already indicated, at no time shall there be fewer than two staff members supervising the activity.~~

~~2. The designated certified lifeguard shall not be counted in the staff-to-children ratios.~~

~~B. If a pool, lake, or other swimming area has a water depth of more than two feet, a certified lifeguard holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water.~~

~~C. The lifeguard certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.~~

#### **22VAC40-185-470. Pools and equipment. (Repealed.)**

~~A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:~~

- ~~1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;~~
- ~~2. Pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;~~
- ~~3. Outdoor swimming pools shall be enclosed by safety fences and gates which are in compliance with the applicable edition of the Virginia USBC (13VAC5-62) and shall be kept locked when the pool is not in use;~~
- ~~4. Entrances to indoor swimming pools shall be locked when the pool is not in use; and~~
- ~~5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.~~

~~B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked and there shall be appropriate water safety equipment.~~

~~C. Piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be stated on the deck or planking.~~

~~D. If portable wading pools without integral filter systems are used, they shall be emptied after the use of each group of children, rinsed, and filled with clean water, or more frequently as necessary.~~

~~E. Children who are not toilet trained may not use portable wading pools.~~

~~F. After each day's use, portable wading pools shall be emptied, sanitized, and stored in a position to keep them clean and dry.~~

#### **22VAC40-185-480. Swimming and wading; general. (Repealed.)**

~~A. The center shall have emergency procedures and written safety rules for swimming or wading or follow the posted rules of public pools that are:~~

- ~~1. Posted in the swimming area when the pool is located on the premises of the center; and~~
- ~~2. Explained to children participating in swimming or wading activities.~~

~~B. The center shall maintain (i) written permission from the parent of each child who participates in swimming or wading and (ii) a statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.~~

~~C. Staff shall have a system for accounting for all children in the water.~~

~~D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.~~

### Part VII

#### Special Care Provisions and Emergencies

#### **22VAC40-185-490. Preventing the spread of disease. (Repealed.)**

~~A. A child shall not be allowed to attend the center for the day if he has:~~

- ~~1. A temperature over 101°F;~~
- ~~2. Recurrent vomiting or diarrhea; or~~
- ~~3. A communicable disease.~~

~~B. If a child needs to be excluded according to subsection A of this section, the following shall apply:~~

- ~~1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed; and~~
- ~~2. The child shall remain in the designated quiet area until leaving the center.~~

~~C. When children at the center have been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the parents shall be notified within 24 hours or the next business day of the center's having been informed unless forbidden by law, except for life threatening diseases, which must be reported to parents immediately.~~

~~D. The center shall consult the local department of health if there is a question about the communicability of a disease.~~

~~E. When any surface has been contaminated with body fluids, it shall be cleaned and sanitized.~~

**22VAC40-185-500. Hand washing and toileting procedures. (Repealed.)**

~~A. Hand washing.~~

- ~~1. Children's hands shall be washed with soap and running water or disposable wipes before and after eating meals or snacks.~~
- ~~2. Children's hands shall be washed with soap and running water after toileting and any contact with blood, feces or urine.~~
- ~~3. Staff shall wash their hands with soap and running water before and after helping a child use the toilet or a diaper change, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.~~
- ~~4. Exception: If running water is not available, a germicidal cleansing agent administered per manufacturer's instruction may be used.~~

~~B. Diapering; soiled clothing.~~

- ~~1. The diapering area shall be accessible and within the building used by children.~~
- ~~2. There shall be sight and sound supervision for all children when a child is being diapered.~~
- ~~3. The diapering area shall be provided with the following:
  - ~~a. A sink with running warm water not to exceed 120°F;~~
  - ~~b. Soap, disposable towels and single use gloves such as surgical or examination gloves;~~
  - ~~c. A nonabsorbent surface for diapering or changing shall be used. For children younger than three years, this surface shall be a changing table or countertop designated for changing;~~
  - ~~d. The appropriate disposal container as required by subdivision 5 of this subsection; and~~
  - ~~e. A leakproof covered receptacle for soiled linens.~~~~
- ~~4. When a child's clothing or diaper becomes wet or soiled, the child shall be cleaned and changed immediately.~~
- ~~5. Disposable diapers shall be used unless the child's skin reacts adversely to disposable diapers.~~
- ~~6. Disposable diapers shall be disposed in a leakproof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.~~
- ~~7. When cloth diapers are used, a separate leakproof storage system as specified in this subdivision shall be used.~~
- ~~8. The diapering surface shall be used only for diapering or cleaning children, and it shall be cleaned with soap and at least room temperature water and sanitized after each use. Tables used for children's activities or meals shall not be used for changing diapers.~~

~~Exception: Individual disposable barriers may be used between each diaper change. If the changing surface becomes soiled, the surface shall be cleaned and sanitized before another child is diapered.~~

~~9. Staff shall ensure the immediate safety of a child during diapering.~~

~~C. Toilet training. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult-sized toilet with a platform or steps and adapter seat.~~

~~1. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained.~~

~~2. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use.~~

**22VAC40-185-510. Medication. (Repealed.)**

~~A. Prescription and nonprescription medication shall be given to a child:~~

~~1. According to the center's written medication policies; and~~

~~2. Only with written authorization from the parent.~~

~~B. Nonprescription medication shall be administered by a staff member or independent contractor who meets the requirements in 22VAC40-185-240 D 1 or 3.~~

~~C. The center's procedures for administering medication shall:~~

~~1. Include any general restrictions of the center.~~

~~2. For nonprescription medication, be consistent with the manufacturer's instructions for age, duration and dosage.~~

~~3. Include duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use and over-the-counter medication may be allowed with written authorization from the child's physician and parent.~~

~~4. Include methods to prevent use of outdated medication.~~

~~D. The medication authorization shall be available to staff during the entire time it is effective.~~

~~E. Medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.~~

~~F. Nonprescription medication shall be in the original container with the direction label attached.~~

~~G. The center may administer prescription medication that would normally be administered by a parent or guardian to a child provided:~~

~~1. The medication is administered by a staff member or an independent contractor who meets the requirements in 22VAC40-185-240 D 1;~~

~~2. The center has obtained written authorization from a parent or guardian;~~

~~3. The center administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container; and~~

~~4. The center administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration.~~

~~H. When needed, medication shall be refrigerated.~~

~~I. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.~~

~~J. Medication, except for those prescriptions designated otherwise by written physician's order, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children.~~

~~K. If a key is used, the key shall not be accessible to the children.~~

~~L. Centers shall keep a record of medication given children, which shall include the following:~~

- ~~1. Child to whom medication was administered;~~
- ~~2. Amount and type of medication administered to the child;~~
- ~~3. The day and time the medication was administered to the child;~~
- ~~4. Staff member administering the medication;~~
- ~~5. Any adverse reactions; and~~
- ~~6. Any medication error.~~

~~M. Staff shall inform parents immediately of any adverse reactions to medication administered and any medication error.~~

~~N. When an authorization for medication expires, the parent shall be notified that the medication needs to be picked up within 14 days or the parent must renew the authorization. Medications that are not picked up by the parent within 14 days will be disposed of by the center by either dissolving the medication down the sink or flushing it down the toilet.~~

**~~22VAC40-185-520. Over-the-counter skin products. (Repealed.)~~**

~~A. All nonprescription drugs and over-the-counter skin products shall be used in accordance with the manufacturer's recommendations. Nonprescription drugs and over-the-counter skin products shall not be kept or used beyond the expiration date of the product.~~

~~B. If sunscreen is used, the following requirements shall be met:~~

- ~~1. Written parent authorization noting any known adverse reactions shall be obtained;~~
- ~~2. Sunscreen shall be in the original container and labeled with the child's name;~~
- ~~3. Sunscreen does not need to be kept locked but shall be inaccessible to children under five years of age or those children in a therapeutic child day program or special needs child day program;~~
- ~~4. Any center-kept sunscreen shall be hypo-allergenic and have a minimum SPF of 15;~~
- ~~5. Staff members without medication administration training may apply sunscreen, unless it is prescription sunscreen, in which case the storing and application of sunscreen must meet medication-related requirements; and~~
- ~~6. Children nine years of age and older may administer their own sunscreen if supervised.~~

~~C. If diaper ointment or cream is used, the following requirements shall be met:~~

- ~~1. Written parent authorization noting any known adverse reactions shall be obtained;~~
- ~~2. These products shall be in the original container and labeled with the child's name;~~
- ~~3. These products do not need to be kept locked but shall be inaccessible to children;~~
- ~~4. A record shall be kept that includes the child's name, date of use, frequency of application and any adverse reactions; and~~
- ~~5. Staff members without medication administration training may apply diaper ointment, unless it is prescription diaper ointment, in which case the storing and application of diaper ointment must meet medication-related requirements.~~

~~D. If insect repellent is used, the following requirements shall be met:~~

- ~~1. Written parent authorization noting any known adverse reactions shall be obtained;~~
- ~~2. Insect repellent shall be in the original container and labeled with the child's name;~~
- ~~3. Insect repellent does not need to be kept locked but shall be inaccessible to children;~~
- ~~4. A record shall be kept that includes the child's name, date of use, frequency of application and any adverse reactions;~~
- ~~5. Manufacturer's instructions for age, duration and dosage shall be followed; and~~
- ~~6. Staff members without medication administration training may apply insect repellent, unless it is prescription insect repellent, in which case the storing and application of insect repellent must meet medication-related requirements.~~

**~~22VAC40-185-530. First aid training, cardiopulmonary resuscitation (CPR) and rescue breathing. (Repealed.)~~**

~~A. There shall be at least one staff member trained in first aid, cardiopulmonary resuscitation, and rescue breathing as appropriate to the age of the children in care who is on the premises during the center's hours of operation and also one person on field trips and wherever children are in care.~~

- ~~1. This person shall be available to children; and~~
- ~~2. This person shall have current certification by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services.~~

~~B. Primitive camps shall have a staff member on the premises during the hours of operation who has at least current certification in first responder training.~~

**~~22VAC40-185-540. First aid and emergency supplies. (Repealed.)~~**

~~A. A first aid kit shall be:~~

- ~~1. On each floor of each building used by children;~~
- ~~2. Accessible to outdoor play areas;~~
- ~~3. On field trips; and~~
- ~~4. Wherever children are in care.~~

~~B. Each first aid kit shall be easily accessible to staff but not to children.~~

~~C. The required first aid kits shall include at a minimum:~~

- ~~1. Scissors;~~
- ~~2. Tweezers;~~
- ~~3. Gauze pads;~~
- ~~4. Adhesive tape;~~
- ~~5. Band-aids, assorted types;~~
- ~~6. An antiseptic cleansing solution /pads;~~
- ~~7. Thermometer;~~
- ~~8. Triangular bandages;~~
- ~~9. Single use gloves such as surgical or examination gloves; and~~
- ~~10. The first aid instructional manual.~~

~~D. The following emergency supplies shall be required at the center and be available on field trips:~~

- ~~1. Activated charcoal preparation (to be used only on the direction of a physician or the center's local poison control center); and~~

~~2. An ice pack or cooling agent.~~

~~E. The following nonmedical emergency supplies shall be required:~~

~~1. One working, battery-operated flashlight on each floor of each building that is used by children; and~~

~~2. One working, battery-operated radio in each building used by children and any camp location without a building.~~

**22VAC40-185-550. Procedures for emergencies. (Repealed.)**

~~A. The center shall have an emergency preparedness plan that addresses staff responsibility and facility readiness with respect to emergency evacuation and shelter-in-place. The plan, which shall be developed in consultation with local or state authorities, addresses the most likely to occur emergency scenario or scenarios, including but not limited to natural disaster, chemical spills, intruder, and terrorism specific to the locality.~~

~~B. The emergency preparedness plan shall contain procedural components for:~~

~~1. Sounding of alarms (intruder, shelter-in-place such as for tornado, or chemical hazard);~~

~~2. Emergency communication to include:~~

~~a. Establishment of center emergency officer and back-up officer to include 24-hour contact telephone number for each;~~

~~b. Notification of local authorities (fire and rescue, law enforcement, emergency medical services, poison control, health department, etc.), parents, and local media; and~~

~~c. Availability and primary use of communication tools;~~

~~3. Evacuation to include:~~

~~a. Assembly points, head counts, primary and secondary means of egress, and complete evacuation of the buildings;~~

~~b. Securing of essential documents (sign-in record, parent contact information, etc.) and special healthcare supplies to be carried off-site on immediate notice; and~~

~~c. Method of communication after the evacuation;~~

~~4. Shelter-in-place to include:~~

~~a. Scenario applicability, inside assembly points, head counts, primary and secondary means of access and egress;~~

~~b. Securing essential documents (sign-in records, parent contact information, etc.) and special health supplies to be carried into the designated assembly points; and~~

~~c. Method of communication after the shelter-in-place;~~

~~5. Facility containment procedures, (e.g., closing of fire doors or other barriers) and shelter-in-place scenario (e.g., intruders, tornado, or chemical spills);~~

~~6. Staff training requirement, drill frequency, and plan review and update; and~~

~~7. Other special procedures developed with local authorities.~~

~~C. Emergency evacuation and shelter-in-place procedures/maps shall be posted in a location conspicuous to staff and children on each floor of each building.~~

~~D. The center shall implement a monthly practice evacuation drill and a minimum of two shelter-in-place practice drills per year for the most likely to occur scenarios.~~

~~E. The center shall maintain a record of the dates of the practice drills for one year. For centers offering multiple shifts, the simulated drills shall be divided evenly among the various shifts.~~

~~F. A 911 or local dial number for police, fire and emergency medical services and the number of the regional poison control center shall be posted in a visible place at each telephone.~~

~~G. Each camp location shall have an emergency preparedness plan and warning system.~~

~~H. The center shall prepare a document containing local emergency contact information, potential shelters, hospitals, evacuation routes, etc., that pertain to each site frequently visited or of routes frequently driven by center staff for center business (such as field trips, pick-up/drop off of children to or from schools, etc.). This document must be kept in vehicles that centers use to transport children to and from the center.~~

~~I. Parents shall be informed of the center's emergency preparedness plan.~~

~~J. Based on local authorities and documented normal ambulance operation, if an ambulance service is not readily accessible within 10 to 15 minutes, other transportation shall be available for use in case of emergency.~~

~~K. The center or other appropriate official shall notify the parent immediately if a child is lost, requires emergency medical treatment or sustains a serious injury.~~

~~L. The center shall notify the parent by the end of the day of any known minor injuries.~~

~~M. The center shall maintain a written record of children's serious and minor injuries in which entries are made the day of occurrence. The record shall include the following:~~

- ~~1. Date and time of injury;~~
- ~~2. Name of injured child;~~
- ~~3. Type and circumstance of the injury;~~
- ~~4. Staff present and treatment;~~
- ~~5. Date and time when parents were notified;~~
- ~~6. Any future action to prevent recurrence of the injury;~~
- ~~7. Staff and parent signatures or two staff signatures; and~~
- ~~8. Documentation on how parent was notified.~~

~~Part VIII  
Special Services~~

**22VAC40-185-560. Nutrition and food services. (Repealed.)**

~~A. Centers shall schedule appropriate times for snacks or meals, or both, based on the hours of operation and time of the day (e.g., a center open only for after school care shall schedule an afternoon snack; a center open from 7 a.m. to 1 p.m. shall schedule a morning snack and midday meal).~~

~~B. The center shall ensure that children arriving from a half-day, morning program who have not yet eaten lunch receive a lunch.~~

~~C. The center shall schedule snacks or meals so there is a period of at least 1-1/2 hours but no more than three hours between each meal or snack unless there is a scheduled rest or sleep period for children between the meals and snacks.~~

~~D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.~~

~~E. In environments of 80°F or above, attention shall be given to the fluid needs of children at regular intervals. Children in such environments shall be encouraged to drink fluids as outlined in subsection D of this section.~~

~~F. When centers choose to provide meals or snacks, the following shall apply:~~

~~1. Centers shall follow the most recent, age-appropriate nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).~~

~~2. Children shall be allowed second helpings of food listed in the USDA's child and adult care meal patterns.~~

~~3. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week.~~

~~4. Children three years of age or younger may not be offered foods that are considered to be potential choking hazards.~~

~~5. A menu listing foods to be served for meals and snacks during the current one-week period shall:~~

~~a. Be dated;~~

~~b. Be posted in a location conspicuous to parents or given to parents;~~

~~c. List any substituted food; and~~

~~d. Be kept on file for one week at the center.~~

~~6. Powdered milk shall not be used except for cooking.~~

~~G. When food is brought from home, the following shall apply:~~

~~1. The food container shall be sealed and clearly dated and labeled in a way that identifies the owner;~~

~~2. The center shall have extra food or shall have provisions to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and~~

~~3. Unused portions of opened food shall be discarded by the end of the day or returned to the parent.~~

~~H. If a catering service is used, it shall be approved by the local health department.~~

~~I. Food shall be prepared, stored, and transported in a clean and sanitary manner.~~

~~J. Contaminated or spoiled food shall not be served to children.~~

~~K. Tables and high chair trays shall be:~~

~~1. Sanitized before and after each use for feeding; and~~

~~2. Cleaned at least daily.~~

~~L. Children shall be encouraged to feed themselves.~~

~~M. Staff shall sit with children during meal times.~~

~~N. No child shall be allowed to drink or eat while walking around.~~

**22VAC40-185-570. Special feeding needs. (Repealed.)**

~~A. High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.~~

~~1. Children using infant seats or high chairs shall be supervised during snacks and meals.~~

~~2. When a child is placed in an infant seat or high chair, the protective belt shall be fastened securely.~~

~~B. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped or used while the child is in his designated sleeping location.~~

~~C. The record of each child on formula shall contain:~~

1. The brand of formula; and
2. The child's feeding schedule.

D. ~~Infants shall be fed on demand or in accordance with parental instructions.~~

E. ~~Prepared infant formula shall be refrigerated, dated and labeled with the child's name.~~

F. ~~Heated formula and baby food shall be stirred or shaken and tested for temperature before serving to children.~~

G. ~~Milk, formula or breast milk shall not be heated or warmed directly in a microwave. Note: Water for warming milk, formula, or breast milk may be heated in a microwave.~~

H. ~~Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day. Formula or breast milk shall not remain unrefrigerated for more than two hours and may not be reheated.~~

I. ~~A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the center.~~

J. ~~Breastfeeding shall be permitted.~~

K. ~~Staff shall feed semisolid food with a spoon unless written instructions from a physician or physician's designee state differently.~~

L. ~~For therapeutic child day programs and special needs child day programs, the consistency of food shall be appropriate to a child's special feeding needs. Necessary and adaptive feeding equipment and feeding techniques shall be used for children with special feeding needs.~~

### **22VAC40-185-580. Transportation and field trips. (Repealed.)**

A. ~~If the center provides transportation, the center shall be responsible from the time the child boards the vehicle until returned to the parents or person designated by the parent.~~

B. ~~Any vehicle used by the center for the transportation of children shall meet the following requirements:~~

1. ~~The vehicle shall be manufactured for the purpose of transporting people seated in an enclosed area;~~
2. ~~The vehicle's seats shall be attached to the floor;~~
3. ~~The vehicle shall be insured with at least the minimum limits established by Virginia state statutes;~~
4. ~~The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; and~~
5. ~~If volunteers supply personal vehicles, the center is responsible for ensuring that the requirements of this subsection are met.~~

C. ~~The center shall ensure that during transportation of children:~~

1. ~~Virginia state statutes about safety belts and child restraints are followed and stated maximum number of passengers in a given vehicle shall not be exceeded;~~
2. ~~The children remain seated and each child's arms, legs, and head remain inside the vehicle;~~
3. ~~Doors are closed properly and locked unless locks were not installed by the manufacturer of the vehicle;~~
4. ~~At least one staff member or the driver always remains in the vehicle when children are present;~~

5. The following information is in transportation vehicles:

- a. Emergency numbers as specified in 22VAC40-185-550 F and H;
- b. The center's name, address, and phone number; and
- c. A list of the names of the children being transported.

~~D. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.~~

~~E. Children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.~~

~~F. The staff-to-children ratios of 22VAC40-185-350 E, G, and H shall be followed on all field trips. The staff-to-children ratios need not be followed during transportation of school age children to and from the center. One staff member or adult is necessary in addition to the driver when 16 or more preschool or younger children are being transported in the vehicle.~~

~~G. The center shall make provisions for providing children on field trips with adequate food and water.~~

~~H. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.~~

~~I. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.~~

~~J. There shall be a communication plan between center staff and staff who are transporting children or on a field trip.~~

~~K. Staff shall verify that all children have been removed from the vehicle at the conclusion of any trip.~~

~~L. Parental permission for transportation and field trips shall be secured before the scheduled activity.~~

~~M. If a blanket permission is used instead of a separate written permission, the following shall apply:~~

- ~~1. Parents shall be notified of the field trip; and~~
- ~~2. Parents shall be given the opportunity to withdraw their children from the field trip.~~

**22VAC40-185-590. Transportation for nonambulatory children. (Repealed.)**

~~A. For therapeutic child day programs and special needs child day programs providing transportation, nonambulatory children shall be transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.~~

~~B. Wheelchairs shall be equipped with restraining devices and shall be securely fastened to the floor when used to seat children in a vehicle.~~

~~C. Arrangements of wheelchairs in a vehicle shall not impede access to exits.~~

~~D. For therapeutic child day programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading and transporting.~~

~~E. When 16 or more children are being transported, there shall be at least one center aide or adult besides the driver, for each group of 16.~~

~~F. For therapeutic child day programs and special needs child day programs, if a child has a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk and that child is being transported, one center aide or adult who is not the driver and who is trained in CPR shall be present in the vehicle.~~

**22VAC40-185-600. ~~Animals and pets. (Repealed.)~~**

~~A. Animals that are kept on the premises of the center shall be vaccinated, if applicable, against diseases which present a hazard to the health or safety of children.~~

~~B. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.~~

~~C. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies.~~

~~D. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice.~~

~~E. The center shall report the animal bite incident to the local health department.~~

~~F. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.~~

**22VAC40-185-610. ~~Evening and overnight care. (Repealed.)~~**

~~A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.~~

~~Exception: Camps providing evening care on an occasional basis are not required to meet the requirements of this subsection if sleeping bags or cots are used.~~

~~B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.~~

~~Exception: Camps providing overnight care on an occasional basis are not required to meet the requirements of this subsection if sleeping bags or cots are used.~~

~~C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.~~

~~D. In addition to 22VAC40-185-450 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.~~

~~E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.~~

~~F. If sleeping bags are used, 22VAC40-185-440 A through E about rest furnishings shall also apply to the use of sleeping bags.~~

~~G. Camps may use bunk beds if children are at least eight years of age.~~

~~H. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.~~

~~Exception: Primitive camps are not required to have a tub or shower.~~

~~I. When bath towels are used, they shall be assigned for individual use.~~

~~J. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in 22VAC40-185-360 through 22VAC40-185-390.~~

~~K. Quiet activities shall be available immediately before bedtime.~~

~~L. For children receiving evening or overnight care, the provider shall offer an evening snack.~~

**FORMS (22VAC40-185) ~~(Repealed.)~~**

~~[Initial Application for a License to Operate a Child Day Center, 032-05-512/12 \(rev. 06/05\).](#)~~

~~[Renewal Application for a License to Operate a Child Day Center, 032-05-225/11 \(rev. 06/05\).](#)~~

**DOCUMENTS INCORPORATED BY REFERENCE (22VAC40-185) ~~(Repealed.)~~**

~~F406-02 ASTM Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards, October 2003.~~

~~F1292-99 ASTM Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment, August 10, 1999.~~

~~"Selecting Playground Surface Materials: Guidelines for Selecting the Best Surface Material for Your Playground," National Program for Playground Safety, University of Northern Iowa, February 2004.~~

~~Air Quality Color Code Chart, Virginia Department of Environmental Quality, April 2004.~~

CHAPTER 186  
STANDARDS FOR LICENSED CHILD DAY CENTERS  
PART I  
DEFINITIONS

**22VAC40-186-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Accessible" means capable of being entered, reached, or used.

"Adult" means any individual 18 years of age or older.

"Age appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Assistant teacher" means the individual designated to be responsible for helping the lead teacher in supervising children and in implementing the activities and services for children.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program where the enrolled children's age ranges are greater than one year and is designed for children who enter the program between three through five years of age. The children enrolled in a "balanced mixed-age grouping" shall be composed of a relatively even number of children in each of three ages (three to six years). The program shall be designed for children and staff to remain together with turnover planned only for the replacement of exiting students with children of ages that maintain the class balance. Balanced mixed-age grouping curricula shall be designed to meet the needs and interests of all children in the group.

"Body fluids" means urine, feces, vomit, blood, saliva, nasal discharge, eye discharge, and tissue discharge.

"Camp" means a day camp that is a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of the same year may be included in a camp for school age children.

"Center" means a child day center.

"Child" means any individual less than 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child with special needs" means a child with developmental disabilities, intellectual disabilities, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way as to remove dirt and debris by scrubbing and washing with soap and water or a detergent solution.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Director" means the primary individual designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not personally performing these functions.

"Director-designee" means an individual designated by the director in writing, with the authority to assume the director's responsibilities in the director's absence.

"Evacuation" means movement of occupants out of the building to a safe area near the building.

"Evening care" means care provided after 7 p.m. but not through the night.

"Fall height" means the distance between the highest designated play surface on play equipment and the protective surface beneath it. A designated play surface is any elevated surface designed for standing, walking, crawling, sitting, or climbing.

"Group of children" means the children assigned to a staff member or team of staff members.

"High school program completion or the equivalent" means an individual has earned a high school diploma or General Education Development (G.E.D.) certificate, or has completed a program of home instruction equivalent to high school completion.

"Inaccessible" means not capable of being entered, reached, or used.

"Incident" means an occurrence of an accident, injury, or any situation that places a child at risk.

"Independent contractor" means an entity that enters into an agreement to provide specialized services or staff for a specified period of time.

"Individual service, recreation, or treatment plan" means a plan identifying the child's strengths, needs, general functioning, and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations, and intervention strategies. The service, recreation, or treatment plan clearly shows documentation and reassessment/evaluation strategies.

"Infant" means a child from birth to 16 months of age.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

"Lead teacher" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Licensee" means the person, corporation, partnership, association, limited liability company, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements related to the facility.

"Management experience" means experience consisting of at least 6 months of on-the-job training in an administrative position that included supervising, orienting, training, and scheduling staff.

"Minor Injury" means a wound or other specific damage to the body that does not require the attention of a medical professional, such as, but not limited to, abrasions, splinters, bites, and bruises.

"Overnight care" means care provided after 7 p.m. and through the night.

"Parent" means the biological, foster or adoptive parent, legal guardian(s), or any individual with custody of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine or osteopathic medicine in any of the 50 states or the District of Columbia.

"Physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, or licensed registered nurse (RN). In addition, acting under supervision of a physician, a physician's designee may be a licensed practical nurse (LPN) or a health assistant.

"Preschool age" means a child from three years of age up to the age of eligibility to attend public school, five years by September 30.

"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.

"Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include but not be limited to a child day program, family day home, child day center, club for boys and girls, continuing education field placement, elementary school, or a faith-based organization.

"Protective surfacing" means impact absorbing materials for indoor and outdoor use, under and around playground equipment. Hard surfaces such as asphalt, concrete, dirt, grass, or flooring covered by carpet or gym mats do not qualify as protective surfacing.

"Relocation" means movement of occupants of the building to a safe location away from the vicinity of the building.

"Sanitized" means treated in such a way as to remove germs, bacteria, and viruses from inanimate surfaces. Sanitizing is accomplished in two steps following cleaning; first by using a sanitizing solution or physical agent (e.g., heat), and second, by allowing the sanitizing solution to air dry on the surface for a minimum of two minutes.

"Sanitizing solution" means a solution approved by the US Environmental Protection Agency, a chemical disinfectant, or a bleach solution made daily.

"School-age" means a child eligible to attend public school, age five or older by September 30 of that same year. Four or five-year-old children included in a group of school-age children may be considered school-age during the summer months if the children will be entering kindergarten that year.

"Serious injury" means a wound or other specific damage to the body that requires the attention of a medical professional, such as, unconsciousness; broken bones; dislocation; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice.

"Shelter-in-place" means movement of occupants of the building to designated protected spaces within the building.

"Short-term program" means a child day center that operates less than 12 weeks a year.

"Special needs child day program" means a program exclusively serving children with special needs.

"Staff" or "staff member" means individuals working at a center who are involved in the day-to-day operation of the center or who are alone with, in control of, or supervising one or more child.

"Standard precautions" means an approach to infection control. According to the concept of standard precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis virus, and other blood-borne pathogens.

"Swings" means:

"Single- axis swing" sometimes called to-fro swing, means a swing that is intended to swing back and forth in a single direction and generally consists of a seat supported by at least two chains or ropes, each of which is connected to a separate pivot on an overhead structure.

"Multi-axis swing" means a swing that consists of a seat, generally a tire, suspended from a single pivot point that permits it to swing in any direction.

"Toddler" means a child from 16 months of age up to 24 months of age.

"Therapeutic child day program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with special needs when an individual service, recreation, or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

"Two-year-old" means a child from age 24 months up to 36 months.

"Use zone" means the surface under and around a piece of equipment onto which a child falling or exiting from the equipment would be expected to land. Use zone areas are also designated for unrestricted circulation around the equipment.

"Volunteer" means a person who works at the center and is not paid, is not counted in the staff-to-child ratios, and is, at all times, in sight and sound supervision of a staff member when working with a child. Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.

## **PART II**

### **ADMINISTRATION AND LICENSEE REQUIREMENTS**

#### **22VAC40-186-20. Operational responsibilities.**

A. The licensee shall ensure compliance with:

1. This regulation, the terms of the license issued by the department, and with other federal, state, or local laws and regulations.
2. Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia and 22VAC40-80 General Procedures and Information for Licensure.
3. Background checks pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1721, and 63.2-1722 of the Code of Virginia and 22VAC15-51, Background Checks for Licensed Child Day Centers.

B. The licensee's responsibilities shall include ensuring that the center's activities, services, and facilities are maintained in compliance with this regulation, the center's own policies, procedures, and parental agreements that are required by this regulation, and the terms of the current license issued by the department.

C. The licensee shall ensure that any advertising is not misleading or deceptive as required by § 63.2-1713 of the Code of Virginia.

D. The licensee shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate.

1. A public licensee may have equivalent self-insurance that is in compliance with the Code of Virginia.

2. Evidence of insurance coverage shall be made available to the department's representative upon request.

E. The licensee shall locate and equip buildings and grounds with consideration for the health and safety of children.

F. The licensee shall ensure that when children 13 years or older are receiving care and supervision in the licensed center, they shall be counted in the number of children receiving care and the center shall comply with this regulation in providing their care.

G. The licensee or licensee's designee shall develop and ensure compliance with:

1. Posting the license in a place conspicuous to the public as required by § 63.2-1701 of the Code of Virginia.

2. Meeting the proof of child identity and age requirements as required by § 63.2-1809 of the Code of Virginia.

3. Keeping written or electronic records of children in attendance each day.

4. A written management plan that includes:

a. A list of all centers under the supervision of the director; and

b. Written policies and procedures that describe how the director will oversee the day-to-day operation of all assigned centers and the supervision of the children including maintaining the appropriate staff-to-child ratios.

5. Written policies and procedures for management of all records, written and electronic, that shall describe confidentiality, accessibility, security, and retention.

6. Written procedures for injury prevention. Injury prevention procedures shall be updated at least annually based on the review of the center's incident reports, activities, and services.

7. Written playground safety procedures which include:

a. Provisions for active supervision by staff to include positioning of staff in strategic locations, scanning play activities, and circulating among children; and

b. Methods of maintaining protective surfacing as required by 22VAC40-186-390 I.

8. Emergency procedures and written safety rules for swimming or wading. The procedures and safety rules shall be posted in the swimming area when the pool is located on the premises of the center and explained to children participating in swimming or wading activities.

9. Procedures for supervising a child who may arrive after scheduled classes or activities have begun, including field trips.

10. Procedures to confirm the absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center.

11. Procedures for identifying where attending children are at all times, including procedures to ensure that all children are accounted for prior to leaving for a field trip, upon arriving at a field trip site, before leaving a field trip site, upon returning to the center, and any stops on such field trip.

12. Procedures for actions to take in case of a lost or missing child, ill or injured child, or when a child experiences a medical or other emergency.

13. Policies for the administration of medications.

**22VAC40-186-30. Initial approval from other agencies.**

A. Before issuance of the first license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the center to the licensing representative:

1. Approval by the code official having jurisdiction that each building meets building and fire codes or that a plan of correction has been approved; and

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision 1 of this subsection when housing a center only serving children two and a half years of age or older.

2. Approval from the local health department or approval of a plan of correction, for meeting requirements for:

a. Water supply;

b. Sewage disposal system; and

c. Food service, if applicable.

B. For buildings built before 1978, the following shall be submitted before the initial license is issued:

1. A written statement from a person licensed in Virginia as an asbestos inspector and management planner as required by § 63.2-1811 of the Code of Virginia and the requirements of the Asbestos Hazard Emergency Response Act (15 USC § 2641 et seq.); and

2. A written statement that the response actions to abate any risk to human health have been or will be initiated in accordance with a specific schedule and plan recommended by the asbestos management planner in accordance with § 63.2-1811 of the Code of Virginia.

C. A notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall be posted.

Exception: The provisions of subsections B and C of this section do not apply to centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.

D. Camps shall notify the responsible fire department and the responsible emergency medical service of the camp location and hours of operation.

**22VAC40-186-40. Annual and renewal approval from other agencies.**

A. The center shall provide to the licensing representative an annual fire inspection report from the appropriate fire official having jurisdiction.

Exception: If a center is located in a building currently housing a public or private school, the school's annual fire inspection report shall be accepted.

B. Annual approval from the health department shall be provided, or approvals of a plan of correction, for meeting requirements for:

1. Water supply;

2. Sewage disposal system; and

3. Food service, if applicable.

C. For those buildings where asbestos containing materials are detected and not removed:

1. A signed, written statement that the center is following the recommendations of the management plan shall be submitted to the department before subsequent licenses are issued; and

2. The notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall continue to be posted.

Exception: The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.

#### **22VAC40-186-50. General record-keeping.**

A. Records required by this regulation may be kept as hard copy or electronically.

B. A back-up system and process to ensure security and availability shall be utilized for electronic records.

C. Records when not in use shall be kept in a locked area.

D. Records required by this regulation shall be kept current.

E. Records may be kept at a central location except as stated otherwise in this regulation.

F. Staff and children's records shall be treated confidentially. Information in the child's record shall not be distributed or released to any unauthorized person without the written consent of the child's parent.

G. Children's records required by this regulation shall be made available to parents on request, unless otherwise ordered by the court.

H. Records and reports on children and staff required by this regulation shall be maintained for two years from the date of termination of services for a child or date of separation from employment unless specified otherwise.

#### **22VAC40-186-60. Reports to the Department.**

Reports shall be filed and maintained as follows:

1. The center shall inform the department's representative as soon as practicable, but not to exceed one business day, of the circumstances surrounding the following:

a. Death of a child while under the center's supervision;

b. Missing child when local authorities have been contacted for help; and

c. A situation in which for any period of time:

1) A child was left unattended in a vehicle or on the playground;

2) A child wandered away from the facility or group; or

3) A child's whereabouts was unknown.

2. Any suspected incident of child abuse or neglect shall be reported in accordance with §63.2-1509 of the Code of Virginia which requires providers to report immediately to child protective services any suspected incident of child abuse or neglect.

### **PART III**

#### **STAFF RECORDS AND QUALIFICATIONS**

#### **22VAC40-186-70. Staff records.**

The following records shall be kept for each staff member:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;
2. Emergency contact information shall be kept on-site at the center that includes name, address, and telephone number of a person to be notified in an emergency.
3. Background checks as required by 22VAC15-51, Background Checks for Licensed Child Day Centers .
4. Documentation that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position.
5. First aid, cardiopulmonary resuscitation, and other certifications as required by the responsibilities held by the staff member.
6. Documentation on results of tuberculosis screening as required by 22VAC40-186-90.
7. Information about any health problems which may interfere with fulfilling the job responsibilities including information as required by 22VAC40-186-100.
8. Date of separation from employment.

**22VAC40-186-80. General staff qualifications and requirements.**

Staff shall:

1. Be of good character and reputation;
2. Be physically and mentally capable of carrying out assigned responsibilities;
3. Be courteous, respectful, patient, and affectionate towards the children in care;
4. Be able to speak, read, and write in English sufficiently enough to carry out assigned job responsibilities; and
5. Not be guilty of an offense set out in §63.2-1719 of the Code of Virginia and meet the requirements specified in 22VAC15-51, Background Checks for Licensed Child Day Centers. .

**22VAC40-186-90. Tuberculosis screening for staff.**

A. Each staff member shall submit a current Report of Tuberculosis Screening form published by the Virginia Department of Health or a form consistent with it, documenting the absence of tuberculosis in communicable form.

B. Documentation of the screening shall be submitted at the time of hire and prior to coming into contact with children.

C. The form shall have been completed within the last 30 days of the beginning of employment date and be signed by a physician, physician's designee, or an official of the local health department.

D. Staff members shall submit a current Report of Tuberculosis Screening form as required by subsection A of this section, at least every two years from the date of the first screening or more frequently if recommended by a licensed physician or the local health department.

E. Within 30 days of a staff member coming into contact with a known case of infectious tuberculosis, the staff member shall submit a new Report of Tuberculosis Screening form in accordance with the requirements in subsection A of this section. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form, the staff member shall not have contact with children.

F. Staff members who develop chronic respiratory symptoms of three weeks in duration shall immediately submit a new Report of Tuberculosis Screening form in accordance with the requirement of subsection A of this section. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form, the staff member shall not have contact with children.

**22VAC40-186-100. Physical and mental health of staff.**

A. When there is evidence that the safety of children may be jeopardized by contact with a staff member or volunteer because of the physical health or mental health of such staff member or volunteer, the licensee shall, at a minimum, prohibit the staff member or volunteer from engaging in contact with the children or participation in the food service program until a licensed physician or a mental health professional skilled in the diagnosis and treatment of mental illness confirms that the condition is cleared as evidenced by a signed statement from the physician or medical health professional.

B. The requirement of subsection A of this section should not be construed as a mandatory precondition to any other employment action that an employer may otherwise take.

**22VAC40-186-110. Director and director-designee requirements.**

A. Each center shall have a qualified director as required by 22VAC40-186-130.

B. The director shall typically be on site a minimum of 50% of the center's hours of operation each week.

Exception: Directors of centers serving only school-age children as provided by 22VAC40-186-120.

C. The director shall designate one or more staff to serve as a director-designee with authority to assume the director's responsibilities in the director's absence. The director-designee shall meet the requirements of 22VAC40-186-140.

D. Prior to being placed in charge, the director-designee shall receive orientation and training on director-designee duties and responsibilities, and be provided written documentation of such duties and responsibilities. This documentation shall be maintained within the staff member's record.

E. The director or a director-designee shall be present at the center whenever the center is open for operation. The names of the director and director-designees shall be posted in a conspicuous place in the center.

F. When not present at a center, the director shall be on call to that center during the hours he is working as a director and shall maintain such accessibility through suitable communication devices.

G. The director-designee shall oversee the day-to-day operation of the center in the absence of the director and shall have access to the staff and child records.

H. The director shall be responsible for the general administration and management of the center and the implementation of center policies, procedures, and developmentally appropriate programming for the children in care.

**22VAC40-186-120. School-age program director and school-age program director-designee requirements.**

A. The director of a school-age center shall be permitted to serve as a director for multiple centers under the following conditions:

1. Only school-age children are enrolled;
2. No more than four centers are served;
3. The combined total licensed capacity of the centers served by the director does not exceed 300; and
4. Each of the centers served is geographically located within a 30-minute average one-way travel time of each of the other centers.

B. The director of multiple school-age centers shall be on site at each center, each week, for a minimum amount of time equal to each center's daily operating hours.

C. Each school-age center shall have either the director or a director-designee present at the center whenever the center is open for operation.

**22VAC40-186-130. Director qualifications.**

A. The director shall be at least 21 years of age; shall meet the general staff qualifications required by 22VAC40-186-80; and shall have a high school diploma or the equivalent.

B. The director shall meet one of the following education and experience qualification options:

1. A bachelor's or graduate degree in child development, early childhood education, human development, or home economics; three months programmatic experience; and three months experience supervising staff;

2. A bachelor's or graduate degree with 12 college credits in child development or child-related courses; the 12 credits may be part of the degree or in addition to the degree; six months programmatic experience; and three months of experience supervising staff;

3. A bachelor's or graduate degree with three college credits in child development or child-related courses; the three credits may be part of the degree or in addition to the degree; one year programmatic experience; and three months of experience supervising staff;

4. Sixty college credits with six college credits in child development or child-related courses; one year programmatic experience; and six months of experience supervising staff;

5. One-Year community college certificate in a child-related field with a minimum of 30 total college credits; one year programmatic experience; and one year experience supervising staff;

6. Community college certificate in a child-related field with a minimum of 12 total college credits; two years programmatic experience; and one year of experience supervising staff;

7. Eighteen college credits of which nine college credits are in child development or child-related courses; two years programmatic experience; and one year of experience supervising staff;

8. A national credential in a child-related field recognized by the Department; two years programmatic experience; and one year supervising staff; or

9. A Virginia credential in a child-related field approved by the Department; three years programmatic experience; and one year of experience supervising staff.

C. Directors without management experience shall obtain one of the following requirements within six months of being hired or promoted:

1. One college course in a business-related field;

2. Ten clock hours of management training; or

3. One child care management course that includes information on program planning, and orienting, training, scheduling, and supervising staff.

D. A director employed prior to (insert effective date of this regulation) who met the education and experience qualifications in effect when employed and who has been continuously employed as a child day center director, is not required to meet the requirements of subsections B and C of this section.

E. A staff member between 19 and 21 years of age may serve as director at a short-term program serving only school-age children if the director has daily supervisory contact with an

individual of at least 21 years of age who meets one of the director qualification options in subsection B of this section.

**22VAC40-186-140. Director-designee qualifications.**

The director-designee shall:

1. Be at least 21 years of age;
2. Meet the general staff qualifications stipulated in 22VAC40-186-80;
3. Have a high school diploma or equivalent;
4. Meet one of the education and experience qualification options for lead teacher as required by 22VAC40-186-150; and
5. Meet the training and orientation requirements in 22VAC40-186-190 and 22VAC40-186-200.

**22VAC40-186-150. Lead teacher qualifications.**

A. Lead teachers shall be at least 18 years of age; shall meet the general staff qualifications required by 22VAC40-186-80; and shall have a high school diploma or the equivalent.

B. Lead teachers shall also meet one of the following education and experience qualification options:

1. One of the director education and experience qualifications in 22VAC40-186-130;
2. An associate's or bachelor's degree with three college credits in a child-related field; and one month programmatic experience;
3. A One-Year community college certificate in a child-related field with a minimum of 30 total college credits; and two months programmatic experience;
4. A community college certificate in a child-related field with a minimum of 12 total college credits; and three months programmatic experience;
5. A national credential in a child-related field recognized by the department; and three months programmatic experience;
6. A teaching diploma from an internationally or nationally recognized Montessori organization; and three months programmatic experience;
7. A credential in a child-related field by an organization listed in § 63.2-1738 of the Code of Virginia; and four months programmatic experience;
8. Twenty-four general education college credits; and six months programmatic experience; or
9. Six months programmatic experience; and 24 clock hours of training in the following topics: child development, guiding behavior, playground safety, and health/safety issues. This training shall be completed no later than one month after being promoted or beginning work. Orientation training required by this regulation shall not be used to meet this qualification.

C. Lead teachers at short-term programs shall have a minimum of one season of programmatic experience, provided that this experience include 200 hours, of which up to 24 hours can be formal training, working directly with children in a group.

D. A lead teacher shall supervise no more than two assistant teachers.

**22VAC40-186-160. Assistant teacher qualifications and requirements.**

A. Assistant teachers shall be at least 16 years of age; shall meet the general staff qualifications stipulated in 22VAC40-186-80; and shall work under the supervision of a lead teacher.

B. Assistant teachers under 18 years of age may be included in staff-to-child ratios, but shall not be left alone with children.

**22VAC40-186-170. Driver qualifications and requirements.**

An individual who drives a vehicle to transport children for a center shall:

1. Be at least 18 years of age;
2. Possess a valid driver's license that authorizes the driver to operate the vehicle being driven;
3. Provide driving record, obtained from the Department of Motor Vehicles; and
4. Not be under the effects of medication that impairs functioning, or under the effects of alcohol, or illegal drugs.

**22VAC40-186-180. Substitute staff requirements.**

Substitute staff shall meet general staff qualifications and health requirements of 22VAC40-186-80 through 22VAC40-186-100, and the orientation requirements of 22VAC40-186-190.

**PART IV**

**STAFF TRAINING AND DEVELOPMENT**

**22VAC40-186-190. Orientation training.**

A. Orientation training for staff, except for the director and director-designee, shall be completed prior to the staff member assuming direct care duties or within seven days of the date of hire.

B. Orientation training for the director and director-designee shall be completed prior to assuming duties.

C. Staff shall not be left alone with children until orientation training has been completed.

D. Orientation training shall be documented in each individual staff member's record and shall include the name of the trainer, dates of training, training topics, and the total number of contact hours of training.

E. Orientation training shall not count towards more than half of the required hours of annual training.

F. Orientation training shall include the standards in this regulation that relate to the staff member's responsibilities.

G. Orientation for staff shall include the following topics:

1. Specific duties and responsibilities of the assigned position and by whom the staff member is supervised;
2. How to obtain assistance in an emergency and the individual's assigned responsibilities during an emergency as specified in the center's emergency preparedness and response plan;
3. Procedures for reporting and documenting incidents and the location of emergency numbers, first aid kit, and emergency supplies;
4. Signs and symptoms of child abuse and neglect and legal reporting requirements for mandated reporters who witness or suspect abuse or neglect;
5. Communicating with staff, parents and the public including confidentiality of personal information; and
6. The center's written policies and procedures;

a. Applicable to the individual's assigned responsibilities; and

b. For staff counted in the staff-to-child ratios the center's policies and procedures related, but not limited to:

(1) Introduction and orientation to each child assigned to the staff member including the child's health issues, medication, individual health care plan, and special needs, if applicable;

(2) Parent communication and notification requirements, and procedures for releasing children to authorized individuals;

(3) Program implementation including: supervision and staff-to-child ratios, child development, classroom management, appropriate staff-to-child interactions, and positive guidance;

(4) Infection control, standard precautions and proper clean up of body fluids, hand washing, toileting, and as applicable, diapering;

(5) First aid and injury prevention including playground safety;

(6) Nutrition and food safety and preparation policies; and

(7) For staff who work with infants and toddlers: prevention of shaken baby syndrome including coping with crying babies; and safe sleeping practices including sudden infant death syndrome awareness.

H. Staff shall be provided in writing with the policies and procedures required in 22VAC40-186-20.

**22VAC40-186-200. Annual training.**

A. Staff shall complete the following:

1. Directors, director-designees, and lead teachers working 20 or more hours a week, 20 clock hours of training annually.

2. Directors, director-designees, and lead teachers working fewer than 20 hours a week, 16 clock hours of training annually.

3. Assistant teachers working 20 or more hours per week, 16 clock hours of training annually.

4. Assistant teachers working fewer than 20 hours per week, 12 clock hours of training annually.

5. Staff employed at a short-term program, 10 clock hours of training annually.

B. Parents who participate in cooperative preschool centers shall complete four hours of orientation training per year.

C. Annual training shall include the following:

1. A review of the center's written policies and procedures and emergency preparedness and response plan, including any updates as required by 22VAC40-186-780;

2. Child development including: physical, cognitive, social, and emotional development; behavior management, and positive guidance techniques;

3. Child health and safety such as: recognition and prevention of the spread of communicable diseases including hand-washing, toileting, and diapering techniques; child nutrition; and playground safety and injury prevention;

4. Signs and symptoms of child abuse and neglect and requirements for mandated reporters; and

5. If applicable, the recommended care requirements related to the care and development of children with special needs.

D. Annual training hours shall be calculated based on the staff member's date of hire, date of promotion, date of transition between full or part-time hours, or based on the individual center's designated training calendar year.

E. A minimum of half of the required annual training shall be face-to-face instruction.

F. Medication Administration Training (MAT), first aid, cardiopulmonary resuscitation (CPR), daily health observation training shall only count toward half of an individual staff member's annual training hours.

G. Staff members such as drivers, cooks, secretaries, receptionists, bookkeepers, custodians, substitutes, and maintenance workers shall only be required to complete annual training on emergency preparedness and response.

H. Staff members counted in the staff-to-child ratio more than once a month shall follow the annual training requirements set forth in subsection A of this section.

I. Documentation of annual training shall be kept by the center in a manner that allows for identification by individual staff member, is considered part of the staff member's record, and shall include:

1. Training topics;
2. Training delivery method;
3. The entity or individual providing training;
4. The number of clock or credit hours received; and
5. The date of training.

#### **22VAC40-186-210. First aid and cardiopulmonary resuscitation (CPR) training.**

A. There shall be at least one staff member who is on the premises during the center's hours of operation and also one person on field trips and wherever children are in care with the following:

1. Current certification in cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care, from the American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council, or current CPR certification issued within the past two years by a community college, a hospital, rescue squad, or fire department.
2. Current certification in first aid from American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council, or current certification issued within the past three years by a community college, a hospital, rescue squad, or fire department.

#### **22VAC40-186-220. Daily health observation training.**

A. There shall always be at least one staff member on duty who has obtained within the last three years, training in performing the daily health observation of children.

B. Daily health observation training shall include:

1. Components of the daily health check for children;
2. Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;
3. Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;
4. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and

5. Occupational health and safety practices in accordance with the Occupational Safety and Health Administration's (OSHA) Blood-borne Pathogen regulation.

**22VAC40-186-230. Medication administration training.**

A. To safely perform medication administration practices listed in 22VAC40-186-710 through 22VAC40-186-750, whenever the center has agreed to administer prescription medications or non-prescription medications, the administration shall only be performed by staff who:

1. Has satisfactorily completed a training program for this purpose developed or approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; or
2. Is licensed by the Commonwealth of Virginia to administer medications.

B. Staff who administer medications as required by subsection A of this section shall be retrained at three-year intervals.

C. A staff member meeting the requirements of subsection A shall always be on site or on field trips whenever a child who may need emergency medications is in attendance.

**22VAC40-186-240. Emergency preparedness training requirements.**

The center shall ensure that each staff member receives training regarding emergency evacuation and relocation and shelter-in-place procedures:

1. By the end of the staff member's first week of assuming job responsibilities; and
2. On an annual basis; and .
3. Each time the plan is updated.

**PART V**

**CHILDREN'S RECORDS AND INFORMATION FOR PARENTS**

**22VAC40-186-250. Children's records.**

Each center shall maintain and keep at the center a separate record for each child receiving services which shall contain the following information:

1. Child's full name, gender, address, and birth date.
2. Name, home address, and telephone number of each parent who has custody;
3. Name, address and telephone number of each custodial parent's place of employment, if applicable;
4. Name, office address, and telephone number of child's physician;
5. Name, address, and telephone number of two designated people, other than the parents, to contact in an emergency if parents cannot be reached;
6. Information on allergies and intolerance to food, medication, or any other substances; and actions to take in an emergency situation;
7. Names of persons other than the parents who are authorized to pick up the child;
8. Appropriate legal paperwork when a parent does not authorize the child's release to the other parent;
9. If applicable, documentation of chronic physical problems, pertinent developmental information, special needs or accommodations, and recommendations for the care and activities of a child with special needs as required in 22VAC40-186-570;
10. First and last dates of attendance;
11. Parent's signed acknowledgement of the receipt of the information required by 22VAC40-186-260 and 22VAC40-186-270;

12. Proof of the child's age and identity and the names and addresses of previously attended child day care and schools as required by 22VAC40-186-20 G 2.

13. Physical examination and immunization documentation for the child as required by 22VAC40-186-290;

Exception: When a center is located on the same premises where a child attends school and the child's record has a statement verifying the school's possession of the physical examination and immunization record, the center is not required to maintain duplicates of the school's physical examination and immunization record for that child provided the school's records are accessible during the center's hours of operation.

14. Written authorization if the center is to administer prescription or nonprescription medication to the child;

15. Written authorization if the child is to participate in swimming or wading activities that includes a statement from the parent advising of the child's swimming skills before the child is allowed in water;

16. Written authorization for transportation and field trips as required by 22VAC40-186-470 A;

17. Special instructions including written exception to an infant's sleeping position as required in 22VAC40-186-540 B or exception to an infant being fed on demand as required in 22VAC40-186-630 F;

18. Record of any incidents, accidents or injuries sustained by the child as required by 22VAC40-186-280 C. The incident, injury, or accident reports may be maintained as a record separate from the children's record as long as it is maintained in a manner that allows for identification by the individual child and is considered part of the child's record;

19. Written agreements between the parent and the center as required by 22VAC40-186-260 and 22VAC40-186-270.

20. Documentation of child behavior and development updates to parents as required in 22VAC40-186-280 J & K;

21. Any blanket permission slips and opt out requests;

22. Name of any additional centers or schools that the child is currently attending and the grade or class level;

23. Daily care and activities requirements for children with special needs, as required by 22VAC40-186-570; and

24. Individual service, recreation, or treatment plan for children in therapeutic or special needs programs, as required by 22VAC40-186-840.

### **22VAC40-186-260. Parental agreements.**

A written agreement between the parent and the center shall be in each child's record by the first day of the child's attendance. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately unless the parent states in writing an objection to the provision of such care on religious or other grounds;

2. A statement that the center will notify the parent when the child becomes ill, and that the parent will arrange to have the child picked up as soon as possible, if so requested by the center; and

3. A statement that the parent will inform the center within 24 hours or the next business day after his child or any member of the immediate household has developed any

reportable communicable disease, as defined by the State Board of Health, except for life threatening diseases which must be reported immediately.

**22VAC40-186-270. Center policies and written information for parents.**

Before the child's first day of attendance, the center shall provide and document in writing in the child's record, parent's receipt of the following written information:

1. The center's written philosophy and administrative organization, including description of established lines of authority for staff.
2. Operating information, including the hours and days of operation and holidays or other times closed, and the phone number where a message can be given to staff.
3. The appropriate general daily schedule for the age of the enrolling child.
4. Schedule of fees and applicable payment schedules.
5. Requirements for reporting suspected child abuse and neglect as required by §63.2-1509 of the Code of Virginia.
6. Custodial parent's right to be admitted to the center as required by §63.2-1813 of the Code of Virginia.
7. Parent communication and notifications required by 22VAC40-186-280.
8. The address of the website for the department, with a note that a copy of this regulation and additional information about the center may be obtained from the website.
9. The center's policies for:
  - a. Administration of medications including the disposal of unused or outdated medications;
  - b. Application of sunscreen, diaper ointment, topical skin products, and insect repellent;
  - c. Arrival and departure of children, including:
    - 1) Procedures for verifying that children are released only to those persons authorized by the parent to pick up the child;
    - 2) Procedures for picking up children after normal closing hours;
    - 3) Procedures and center responsibilities for when a child is not picked up during emergency situations;
    - 4) Procedures for supervision of children who arrive after regularly scheduled classes begin, including field trips;
  - d. Behavior guidance including acceptable and unacceptable actions;
  - e. Emergency preparedness and response plans;
  - f. Food service and nutrition;
  - g. Inclusion of children with special needs;
  - h. Identifying where children are at all times, confirmation of child absences, and actions to take in the case of a lost, missing, or injured child;
  - i. Injury prevention and playground safety;
  - j. Swimming and wading procedures;
  - k. Termination of services;
  - l. Toilet training procedures as required by 22VAC40-186-690; and
  - m. Transportation procedures.

**22VAC40-186-280. Parent communication and notification.**

A. The center shall notify parents in writing when persistent behavioral problems are identified and such notification shall include any actions taken in response.

B. The center shall provide parents with a written report of each incident involving their child on the day of occurrence. The written report shall include:

1. Date and time of incident or injury;
2. Name of child;
3. Type and circumstance of incident or injury;
4. Staff present and actions taken or treatment offered;
5. Date, time, and method used to notify parents; and
6. Staff and parent signatures or two staff signatures.

C. The center shall notify the parent immediately when:

1. The child has a head injury or any serious injury that requires emergency medical or dental treatment.
2. The child has an adverse reaction to an administered medication or medication has been administered incorrectly.
3. The child is lost or missing.
4. A child was left unattended in a vehicle or on the playground, a child wandered away from the facility or group, or a child's whereabouts were unknown.
5. The child has died.

D. When a child has been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the center shall notify the parent within 24 hours or the next business day of the center's having been informed, unless forbidden by law, except for life-threatening diseases, which must be reported to parents immediately. The center shall consult the local health department if there is a question about the communicability of a disease.

E. Parents shall be informed of any change in the center's emergency preparedness and response plan. Any changes shall be communicated in writing or by posting; except in emergency evacuation or relocation situations, the center shall inform the parent and have written permission as required by 22VAC40-186-470 A before the child is taken off the premises of the center.

F. If an emergency evacuation or relocation is necessary, the parent shall be informed of the child's whereabouts as soon as possible as stated in the center's emergency preparedness and response plan.

G. The center shall request from the parent, at least annually, written confirmation that information required in the child's record is up to date. Such sharing of information shall be documented.

H. For each infant, the center shall maintain a daily record which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:

1. The amount of time the infant slept;
2. The amount of food consumed and the time;
3. Record of diaper changes and any application of diaper ointment;
4. A description and time of bowel movements;
5. Developmental milestones; and

6. For infants, who are awake and cannot turn over by themselves, the amount of time spent on their stomachs.

I. The center shall provide:

1. To parents of infant, toddler, two year old, preschool age children, and children with special needs, at least semiannually or more frequently if needed:

a) Written information about their child's development, behavior, adjustment, and needs; and

b) Scheduled opportunities for parents to provide feedback on their children.

2. To parents of school-age children or children enrolled only during short-term summer programs, at least annually or more frequently if needed:

a) Written information about their child's development, behavior, adjustment, and needs; and

b) Opportunities for parents to provide feedback on their children;

3. To all parents, at least annually, opportunities to provide feedback on the center's program.

J. Information on a child required by section I and J of this subsection shared between the child's parents and the center shall be documented in the child's record.

**22VAC40-186-290. Immunizations and physical examinations for children.**

A. The center shall obtain for each child documentation of immunizations administered by a physician or physician's designee before the child can attend the center.

B The center shall obtain for each child documentation of a physical examination conducted by or under the direction of a physician or physician's designee.

1. The physical examination shall be within 12 months prior to attendance or within one month after attendance.

2. Exceptions:

a. A new physical examination is not required if a copy of the physical examination is available to the center for a child transferring from a facility licensed by the Virginia Department of Social Services, approved by a licensed family day home system, voluntarily registered by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or transferring from a Virginia Department of Education approved child care program.

b. Pursuant to subsection D of §22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

c. For a school-age child, a copy of the physical examination required for entry into a Virginia public kindergarten or elementary school is acceptable documentation.

C. Immunizations and physical examinations for each child shall be documented on the current Virginia Department of Health form or on a physician's form and shall include:

1. The date of the physical examination;

2. Dates immunizations were received; and

3. The signature, initials, electronic signature, or identifying stamp of the physician or health department office for the physician, physician's designee, or official of a local health department.

D. Pursuant to subsection C of §22.1-271.2 of the Code of Virginia, documentation of immunizations is not required for any child whose

1. Parent submits an affidavit to the center, on the current form approved by the Virginia Department of Health stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or

2. Physician or a local health department states on a Virginia Department of Health approved form that one or more of the required immunizations may be detrimental to the child's health, indicating the specific nature and probable duration of the medical condition or circumstances that contraindicates immunization.

## **PART VI** **FACILITIES AND EQUIPMENT**

### **22VAC40-186-300. General physical plant requirements.**

A. Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe, and operable condition in accordance with the current edition of the Virginia Uniform Statewide Building Code Part III - Virginia Maintenance Code and Statewide Fire Prevention Code. Unsafe conditions shall include, but not be limited to: the presence of poisonous plants; tripping hazards; unstable heavy equipment, furniture, or other items that a child could pull down on himself; splintered, or otherwise deteriorating wood; chipped or peeling paint; bending or warping, rusting, or breakage of any equipment; head entrapment hazards; and protruding nails, bolts, or other components that could entangle or could snag skin.

B. Hot water accessible to children shall not exceed 120°F.

C. Sinks used by staff and children in care shall be supplied with warm water between 105°F and 120°F.

D. Heat shall be supplied from a heating system approved in accordance with the Virginia Uniform Statewide Building Code (13VAC5-63) except for camps. The heating system shall:

1. Be installed to prevent accessibility of children to the system; and

2. Have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

E. A telephone shall be available, operable, and accessible during the center's hours of operation.

F. Electrical outlets and surge protectors accessible to children preschool age or younger shall be tamper resistant outlets or have childproof covers.

G. Electrical cords shall be placed beyond the reach of children under age two and shall not be spliced, deteriorated, or damaged.

H. Extension cords shall not be a substitute for permanent wiring. When extension cords are used, they shall bear the listing of a nationally recognized testing laboratory, shall not be overloaded, and shall not be placed through doorways, under carpeting, or across water-source areas.

I. Indoor areas occupied by children shall be maintained at a temperature at 65°F or above.

J. Fans or other cooling systems shall be used when the temperature of inside areas exceeds 80°F. Fans shall be kept out of the reach of children.

K. If electric space heaters are used; they shall be inaccessible to children and shall have the seal of approval of a nationally recognized testing laboratory or be approved by the state or local fire official and not used within three feet of combustible materials.

L. Unvented fuel burning heaters shall not be used when children are in care.

M. Any location which is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and which houses a public or private school during the school year shall be considered to have met the building and playground requirements of 22VAC40-186-390 of this regulation, when housing a center only serving school-age children.

N. For school-age camp programs:

1. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a nationally recognized testing laboratory and shall be used in accordance with the manufacturer's specifications; and
2. Cooking and heating is prohibited inside tents.

**22VAC40-186-310. Hazards to children.**

A. Hazardous, toxic and potentially hazardous substances and chemicals such as cleaning products, pesticides, flammable and explosive materials, and art and craft materials labeled as hazardous to children shall be:

1. Stored in a locked place using a safe locking method. If a key is used, the key shall be inaccessible to children.
2. Stored in the original container or a substitute container clearly labeled with its contents.
3. Stored in areas physically separate from food for consumption and shall not be stored with any items used for food preparation or food service.

B. Cleaning materials shall be stored in an area separate from insecticides and pesticides.

C. Cleaning supplies used to clean and sanitize food service tables, the diapering area, and toilet chairs do not need to be locked directly before and after meals and during diapering or toileting time as long as they are inaccessible to children.

D. Smoking shall be prohibited at the center or in the presence of children.

E. The following items shall be inaccessible to children:

1. For children age 2 and under, empty plastic bags large enough for a child's head to fit inside, disposable gloves, and rubber or latex balloons;
2. For children under age 3, toys or items with removable parts with a diameter of less than 1 ¼ inch and a length of less than 2 inches;
3. For children age 5 and under, strings and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords.

**22VAC40-186-320. Indoor space requirements.**

A. There shall be 35 square feet of indoor space available per child for:

1. Centers licensed after June 1, 2008; and
2. Indoor space not previously used to calculate areas in buildings licensed prior to June 1, 2008.

B. There shall be 25 square feet of indoor space available per child for centers licensed prior to June 1, 2008.

1. Indoor space shall be measured inside, wall-to-wall.
2. Spaces not routinely used by children such as offices, hallways, restrooms, kitchens, storage rooms, or closets, shall not be included when calculating available space.
3. Current licensees and subsequent licensees at currently licensed facilities may continue to provide 25 square feet per child if licensed prior to June 1, 2008.

C. A separate space away from other children shall be designated for children who are ill or injured.

Exception: Camps for school age children are not required to meet the space requirement in subsections A through C of this section; however, when weather prevents outdoor activities, the required indoor space per child shall be provided either at the program site or at a pre-designated, approved location off site.

**22VAC40-186-330. Indoor space requirements for infants.**

A. Space in areas used by infants shall be calculated separately from space for older children.

B. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.

**22VAC40-186-340. Outdoor space requirements.**

A. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.

B. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children that has at least 25 square feet of unpaved surface per infant or toddler on the outdoor area at any one time. This space may be counted as part of the 75 square feet required in subsection A of this section.

**22VAC40-186-350. Equipment and materials.**

A. Furnishings, equipment, and materials shall be sturdy and of an appropriate size for the children in care.

B. Materials and equipment shall be age appropriate and include an adequate supply for the children in each age group. Materials and supplies shall include arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.

C. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

D. Disposable products shall be used once and discarded.

E. Provisions shall be made for an individual place for each child's personal belongings.

F. Infant walkers shall not be used.

G. Equipment shall be free of protrusions, sharp points, pinch points, or shearing points which could cut or puncture skin.

H. Play pens and play yards when used shall:

1. Meet the current Juvenile Products Manufacturers Association (JPMA) and current American Society for Testing and Materials (ASTM) requirements and shall retain the manufacturer's label documenting the product compliance with safety standards.

2. Not be used after recalled;

3. Not be used with pillows or filled comforters;

4. Not be used for the designated sleeping areas;

5. Not be occupied by more than one child; and

6. Be sanitized each day of use or more often as needed.

I. Upon being informed that a product has been recalled, center staff shall remove the item from the center.

**22VAC40-186-360. Cribs, cots, rest mats, and beds.**

A. Cribs, cots, rest mats, or beds shall be provided for children during the designated rest period and shall not be occupied by more than one child at a time.

B. Cribs, cots, rest mats, and beds shall be labeled for use by a specific child.

C. Double decker cribs, cots, or beds, or other stacked sleeping equipment shall not be permitted.

D. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat producing appliance.

E. Cribs, cots, rest mats, or beds shall not be used as play space.

F. Rest mats shall have at least an inch of cushioning; and shall be cleaned and sanitized on all sides at least weekly; before use by another child; and as needed if soiled.

G. There shall be at least 12 inches of space between occupied cots, beds, and rest mats.

H. When cribs are in use, there shall be at least:

1. Twelve inches of space between the open sides and ends of occupied cribs except where they touch the wall; and

2. Thirty inches of space between service sides of occupied cribs and other furniture where that space is the walkway for staff to gain access to any occupied crib.

I. Cribs shall be used:

1. For children under 12 months of age; and

2. For children over 12 months of age by parental request or if the child is not ready to sleep on a cot or rest mat.

J. Cribs shall:

1. Meet the current Consumer Product Safety Commission Standards (16 CFR Parts 1219, 1220, and 1500).

2. Have mattresses that fit snugly next to the crib so that no more than two fingers can be inserted between the mattress and the crib.

3. Not have mesh sides.

K. Pillows and filled comforters shall not be used by children under twelve months of age while sleeping or resting.

L. Cribs shall be placed where objects outside the crib such as electrical cords or cords from blinds or curtains are not within reach of infants or toddlers.

M. Use of crib bumper pads shall be prohibited.

N. Toys or objects hung over an infant in a crib and crib gyms that are strung across the crib may not be used for infants over five months of age or infants who are able to push up on their hands and knees.

### **22VAC40-186-370. Bedding and linens for use while sleeping or resting.**

A. When cribs, cots, rest mats, and beds are in use for sleeping or resting by children of toddler age and above they shall have linens consisting of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens used by infants shall only have a tight-fitting bottom cover.

C. Linens, and if pillows are used, shall be assigned for individual use.

D. Linens shall be clean and washed at least weekly, and

1. Crib sheets shall be clean and washed daily.

2. When centers wash the linens, the water shall be above 140°F or the dryer shall heat the linens above 140°F as verified by the manufacturer or a sanitizer shall be used according to the manufacturer's instructions.

D. Mattresses, when used, shall be covered with a waterproof material which can be cleaned and sanitized.

E. No soft bedding of any kind shall be used with infants when sleeping or resting including pillows, quilts, comforters, sheepskins, or stuffed toys.

**22VAC40-186-380. Restroom areas and furnishings.**

A. Centers shall be equipped with at least two toilets and two sinks.

B. Centers shall be equipped with at least one toilet and one sink per 20 preschool children and at least one standard size toilet and one sink per 30 school-age children. When sharing restroom areas with other programs, the children in those programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply.

C. Each restroom area provided for children shall:

1. Be within a contained area, easily accessible and within the building used by the children;
2. Have toilets that are flushable;
3. Have sinks located near the toilets;
4. Be equipped with liquid soap, toilet paper, and disposable towels or an air dryer within reach of children.

D. Urinals shall not be substituted for more than one-half of the required number of toilets in the restroom used for males.

E. An adult-size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them.

F. When child-size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platforms or sets of steps shall be provided. Platform steps shall be anchored or broad based to prevent toppling, and have a non-slip surface.

G. School age children of the opposite sex shall not use the same restroom at the same time.

H. A restroom used for school-age children that contains more than one toilet shall have at least one toilet enclosed.

I. Restrooms used by school-age children at camps are not required to:

1. Be located within the building;
2. Have sinks, if adequate water, supplies, and equipment for hand washing are available;
3. Have warm running water;
4. Have flushable toilets, if the number of sanitary privies or portable toilets constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health meets the toilet ratio stated in subsection B of this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities;
5. Have a toilet with privacy for staff.

**22VAC40-186-390. Indoor and outdoor play areas and equipment.**

A. Playgrounds shall be located and designed to protect children from hazards.

B. Indoor and outdoor playground and climbing equipment shall be age appropriate.

C. The maximum fall height of slides and climbing equipment installed prior to June 1, 2005, and used by toddlers and preschool children, shall be seven feet high when outdoors, and five feet high when indoors.

D. The maximum fall height of slides and climbing equipment installed after June 1, 2005 and used by preschoolers or toddlers shall be six feet high.

E. Indoor slides and climbing equipment over 18 inches in height shall not be over bare floor.

F. Indoor slides and climbing equipment 36 inches or more in height shall be located over a protective surface.

G. Play equipment used by children shall meet the following requirements:

1. Equipment shall not have openings that can entrap a child's body or body part. Openings above the ground or floor, which allow a three and one-half (3-1/2) inch by six and one-quarter (6-1/4) inch rectangle to fit through shall be large enough to also allow a nine-inch circle to fit through.

2. All hooks, such as S-hooks and C-hooks, shall be properly closed. A hook is considered closed if there is not gap or space greater than 0.04 inches, about the thickness of a dime or credit card.

3. Slides shall not have any spaces or gaps that could trap strings, clothing, body parts, etc. between the platform and the start of the slide chute.

H. Swings shall have flexible seats of rubber, canvas, or nylon.

1. Non-flexible molded swing seats may be used only in a separate infant or toddler play area.

2. Swings made specifically for a child with a special need shall be permitted in any area as long as a staff member is positioned to see and protect other children who might walk into the path of the swing.

I. Where outdoor climbing equipment or swings are provided, use zones with protective surfacing shall be under and around equipment with moving parts or climbing apparatus. Protective surfacing of loose-fill materials shall be installed and maintained at an appropriate depth determined by the type of loose-fill material used with the fall height of the equipment, as specified in Table 1 of this section. Protective surfacing consisting of unitary surfacing materials shall be installed and maintained per the manufacturer's instructions.

**Table 1**  
**Compressed Loose-fill Surfacing Requirements**

Depths listed below are required unless the facility has received documentation of third-party laboratory testing verifying that the type, depth of protective surfacing, or installation process used at the facility complies with American Society for Testing and Materials (ASTM) F-1292 - Standard Specifications for Impact Attenuation of Surface Systems under and Around Playground Equipment.

<u>Loose-fill Material Type</u>	<u>Required Depth</u>	<u>Maximum Equipment Fall Height</u>
<u>Engineered Wood Fiber</u>	<u>6 inches</u>	<u>7 feet</u>
	<u>9 inches</u>	<u>8 feet</u>
<u>Pea gravel</u>	<u>6 Inches</u>	<u>4 feet</u>

	<u>9 inches</u>	<u>5 feet</u>
	<u>12 inches</u>	<u>6 feet</u>
<u>Recycled Shredded Rubber</u>	<u>6 inches</u>	<u>8 feet</u>
<u>Sand</u>	<u>6 inches</u>	<u>8 feet</u>
<u>Wood chips</u>	<u>6 Inches</u>	<u>6 feet</u>
	<u>9 inches</u>	<u>8 feet</u>
<u>Wood mulch</u>	<u>6 inches</u>	<u>7 Feet</u>
	<u>9 inches</u>	<u>10 feet</u>
<u>Wood Mulch - Double Shredded</u>	<u>6 inches</u>	<u>6 feet</u>
	<u>9 inches</u>	<u>10 feet</u>

J. Use zones shall be free of obstacles, including any containment barriers for protective surfacing, and shall extend a minimum of six feet in all directions from the perimeter of the equipment; and

1. For slides greater than six feet in height, the use zone in front of the slide exit, measured from the end of the slide exit, shall extend at least as far in length as the slide is high, up to a maximum of eight feet.

2. For single-axis swings, the use zone in the front and rear of swings shall be twice the height of the swing support beam, measured from the swings pivot point connection to the protective surface.

3. For multi-axis swings, the use zone shall extend in any direction from a point directly beneath the pivot point for a minimum distance of six feet plus the length of the suspending chain or rope.

K. Climbing equipment and swings shall not be installed over asphalt or concrete unless the asphalt or concrete is:

1. Covered with a properly installed unitary surfacing material; or

2. Covered with a loose-fill surfacing system (see Table 2 below for a visual representation). A loose-fill surfacing system shall include the following layers of protection:

a. Immediately over the hard surface there shall be a 3- to 6-inch base layer of loose-fill gravel for drainage;

b. The next layer shall be a geo-textile cloth;

c. On top of the geo-textile cloth there shall be a loose-fill layer meeting the requirements of section I of this subsection; and

d. Impact attenuating mats shall be embedded in the top loose-fill layer in high traffic areas. High traffic areas include underneath swings, at slide exits, and other places where displacement is likely.

Table 2 Loose-fill Surfacing System Requirements for Use Over Asphalt or Concrete	
Layer 5	Impact mats - under swings and slide exits

Layer 4	Loose-fill surfacing material - as required by 22VAC40-186-390 K I
Layer 3	Cloth barrier – geo-textile cloth
Layer 2	Drainage Layer - three to six inches of gravel
Layer 1	Hard surface of existing asphalt or concrete

L. Anchoring ground supports for climbing equipment and swings shall be covered with materials that protect children from injury.

M. Sandboxes with bottoms that prevent drainage shall be covered when not in use.

N. A shady area shall be provided on playgrounds during the months of June, July, and August.

O. Trampolines shall not be used.

EXCEPTION: The requirements of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and outdoor areas approved for use by students of the school during school hours.

**22VAC40-186-400. Pools, equipment, and swimming requirements.**

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;
2. Pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;
3. Outdoor swimming pools shall be enclosed by safety fences and gates which are in compliance with the applicable edition of the Virginia USBC (13 VAC 5-63) and shall be kept locked when the pool is not in use;
4. Entrances to indoor swimming pools shall be locked when the pool is not in use; and
5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked and there shall be appropriate water safety equipment.

C. Piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be stated on the deck or planking.

D. If portable wading pools without filter systems are used, after the use of each group of children, or more frequently as necessary, they shall be emptied, rinsed, and filled with clean water.

E. Children who are not toilet trained may not use portable wading pools.

F. After each day's use, portable wading pools shall be emptied, sanitized, and stored in a position to keep them clean and dry.

**22VAC40-186-410. Vehicle requirements.**

A. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be manufactured for the purpose of transporting people seated in an enclosed area;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be licensed or registered and insured with at least the minimum limits established by Virginia state statutes;
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; and
- 5 If volunteers or staff members supply personal vehicles, the center is responsible for ensuring that the requirements of this subsection are met.

B. The following information shall be in vehicles when transporting children:

1. The center's name, address, and phone number;
2. A list of the names of the children being transported and each child's emergency contact information as specified in 22VAC40-186-250 1-6; and
3. Document containing local emergency contact information, potential shelters, hospitals, evacuation routes, etc., that pertain to each site frequently visited or of routes frequently driven by center staff for center business, such as field trips, pick-up and drop-off of children to or from local schools.

## PART VII

### STAFF SUPERVISION RESPONSIBILITIES AND STAFF-TO-CHILD RATIOS

#### 22VAC40-186-420. Staff supervision responsibilities.

A. When staff are supervising children, they shall always ensure their care, protection, and guidance.

B. Staff counted in the staff-to-child ratio shall know the name, age, and individual needs or special needs for all assigned children.

C. Staff shall maintain direct care and supervision of assigned children at all times, adjusting appropriately for different ages and abilities of children. Direct care and supervision includes:

1. Awareness of and responsibility for each child in care, including being near enough to intervene if needed;
2. Awareness of the ongoing activity within the group; and
3. Responding promptly to children's needs.

D. Staff shall maintain sight and sound supervision for children less than 10 years of age, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system in place to assure that individuals who are not staff members or individuals allowed to pick up a child in care do not enter the restroom area while in use by children; and
2. Staff check on a child who has not returned from the restroom after five minutes. Depending on the location and layout of the restroom, staff may need to provide intermittent sight supervision of the children in the restroom area during this five-minute period to assure the safety of children and to provide assistance as needed.

E. Staff shall intervene when children attempt to injure themselves or others.

F. Staff shall maintain sight or sound supervision of children over 10 years of age provided that:

1. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);

2. Staff are nearby so they can provide immediate intervention if needed;

3. There is a system to ensure that staff knows where the children are and what they are doing;

4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and

5. Staff provides sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

G. Staff shall regularly count assigned children to confirm the safe whereabouts of each child including:

1. On an ongoing basis within the group;

2. Prior to leaving one area; and

3. When arriving at another area.

H. Staff shall greet each child upon arrival at the center and oversee the child's departure from the center.

I. Staff shall not allow a child to leave the center unsupervised.

J. During staff transitions, staff shall communicate the following information to incoming staff:

1. The whereabouts of all assigned children;

2. Relevant information about the children's day, and

3. Information that should be communicated to the children's parents.

#### **22VAC40-186-430. General direct supervision of children.**

A. In each grouping of children at least one staff member who meets the qualifications of a lead teacher or program director shall be regularly present.

B. A lead teacher is not required in each grouping of children during the first and last hour of operation, when a center operates more than six hours per day if the following are met:

1) There is a staff member in the group who is over 18 years of age and has at least three months of programmatic experience at the center;

2) There is an additional staff person on site who meets lead teacher qualifications, is not counted in the staff-to-child ratio of another group, and is immediately available to assist if needed; and

3) There is a direct means for communication between these two staff members.

C. Whenever one or more child is present at the facility or on an outdoor activity area that is not adjacent to the facility, there shall be at least one lead teacher and one additional staff member present, with direct means for communication between them.

D. With a parent's written permission and with a written assessment by the director and the child's lead teacher, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level. In these instances, the staff-to-child ratio shall remain the ratio of the established age group.

#### **22VAC40-186-440. Staff-to-child ratio requirements.**

A. Staff shall be counted in the required staff-to-child ratio only when they are directly supervising children as required in subsection C of this section.

B. The staff-to-child ratio is the maximum number of children one staff member may directly supervise.

C. Whenever children are in care the following staff-to-child ratios shall be maintained:

1. One staff member for every four children from birth to 16 months of age;
2. One staff member for every five children from 16 months to two years of age;
3. One staff member for every eight children two years of age;
4. One staff member for every 10 children aged three years to the age of eligibility to attend public school;
5. One staff member for every 18 children the age of eligibility to attend public school through eight years of age; and
6. One staff member for every 20 children aged nine years through 12 years of age.

EXCEPTION: For toddlers, two year old children, and preschool age children, staff-to-child ratios during designated rest periods may be adjusted according to 22VAC40-186-450.

D. When children are regularly in ongoing mixed age groups, the staff-to-child ratio required by section C of this subsection for the youngest child in the group shall apply to the entire group.

**22VAC40-186-450. Ratios during designated rest periods.**

A. For children ages 16 months through preschool age, during the designated rest period, when children are resting or in an inactive state, the following rest-time ratios are permitted if the requirements of subsections B through F of this section are met:

Staff-to-child rest-time ratios are as follows:

1. Children 16 through 24 months of age - one staff per 10 children.
2. Children two years of age - one staff per 16 children.
3. Children of preschool age - one staff per 20 children.

B. Staff required by rest-time ratios must be physically present at all times in the same space as the resting or sleeping children.

C. In addition to the staff required by rest-time ratios, an additional staff member shall always be available on-site to offer immediate assistance. The staff required by rest-time ratios shall be able to summon the additional staff member without leaving the room or area of the sleeping or resting children.

D. Once at least half of the children in the resting room or area are awake and off their mats or cots, the staff-to-child ratio shall meet the non-rest-time ratios as required in 22VAC40-186-440.

E. One staff member may not supervise more than one room or area during rest time.

F. Staff supervising children during rest-time shall remain awake and alert to the needs of the children.

G. Staff-to-child ratios for resting infants and school-age children shall be in accordance with 22VAC40-186-440.

H. Centers providing evening and overnight care shall meet the requirements of this subsection during sleep periods.

**22VAC40-186-460. Ratios for balanced-mixed-age groupings.**

The ratio for balanced-mixed-age groupings of children shall be one staff member for every 14 children, provided:

1. There is sufficient substitute staff to meet a ratio of one staff member for every 12 children, if the staff member trained in balanced-mixed-age groupings is absent two weeks or more;

2. The center has additional staff, who are readily accessible in the event of an emergency, to maintain a ratio of one staff member for every 10 children, for all three-year-olds included in the balanced-mixed-age group; and

3. The lead teacher has received at least eight hours of training in classroom management of balanced-mixed-age groupings.

**22VAC40-186-470. Ratios and supervision during transportation and field trips.**

A. If the center provides transportation, the center shall be responsible from the time the child boards the vehicle until returned to the parents or person designated by the parent.

1. Parental permission for transportation and field trips shall be secured before the scheduled activity; and

2. If blanket permission is used instead of a separate written permission for each field trip, the following shall apply:

a. Parents shall be notified in advance of each field trip; and

b. Parents shall be given the opportunity to withdraw their children from the field trip.

B. When transporting children two years of age or younger, there must be one adult in the vehicle in addition to the driver.

C. When transporting 16 or more children, and there is a child in the vehicle preschool age or younger there must be one adult in the vehicle in addition to the driver.

D. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed and stated maximum number of passengers in a given vehicle shall not be exceeded.

2. The children remain seated and each child's arms, legs, and head remain inside the vehicle.

3. Doors are closed properly and locked unless locks were not installed by the manufacturer of the vehicle.

4. At least one staff member or the driver always remains in the vehicle when children are present.

5. A communication plan exists between center staff and staff who are transporting children or on a field trip.

6. Staff verify all children have been removed from the vehicle at the conclusion of any trip.

E. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

F. Children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

G. Once exiting the vehicles, the staff-to-child ratios of 22VAC40-186-440 C shall be followed on all field trips.

H. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

I. On a field trip, in addition to maintaining the appropriate staff-to-child ratio, whenever one or more child of preschool age or younger is present, there must be one additional adult present.

**22VAC40-186-480. Ratios and supervision during swimming and wading.**

A. During swimming or wading activities, in addition to maintaining staff-to-child ratios required by 22VAC40-186-440, at no time shall there be fewer than two staff members supervising the activity, and the designated, certified lifeguard shall not be counted in the staff-to-children ratios.

B. Staff shall have a system for accounting for all children in the water.

C. If a pool, lake, or other swimming area has a water depth of more than two feet, when one or more child is in the water, a certified lifeguard with a current certificate, shall be on duty, at all times, supervising the children participating in swimming or wading activities,

D. The lifeguard certification shall be obtained from an organization such as: the American Red Cross, the YMCA, or the Boy Scouts of America.

E. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

F. When swimming or wading activities are provided, parental permission shall be secured before the scheduled activity and shall include information as required by subdivision 15 of 22VAC40-186-250.

**22VAC40-186-490. General interactions with children.**

A. In order to promote children's physical, intellectual, emotional, and social well-being and growth, staff shall:

1. Talk to the children;
2. Provide needed help, comfort, and support;
3. Respect personal privacy;
4. Respect differences in cultural, ethnic, and family backgrounds;
5. Encourage decision-making abilities;
6. Promote ways of getting along with others;
7. Encourage independence and self-direction; and
8. Use consistency in applying expectations.

B. Staff shall encourage language development by having conversations with children that give them time to initiate and respond, by labeling and describing objects and events, having storytelling time and by expanding the children's vocabulary.

**22VAC40-186-500. Guiding children's behavior.**

A. The center shall inform staff, parents and children of the center's behavioral expectations for children.

B. The center shall use positive methods of guiding behavior. Behavior guidance shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, appropriate and understandable for the child's level of development;
2. Providing children with reasons for limits;
3. Giving positively-worded directions;
4. Modeling and redirecting children to acceptable behavior;
5. Helping children to constructively express their feelings and frustration to resolve conflict; and
6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

C. When time out is used as a behavior guidance technique:

1. It shall be used sparingly and shall not exceed one minute for each year of the child's age;
2. It shall be appropriate to the child's developmental level and circumstances;
3. It shall not be used with infants or toddlers;
4. The child shall be in a safe, lighted, well-ventilated place, and within sight and sound of a staff member; and
5. The child shall not be left alone inside or outside the center while separated from the group.

**22VAC40-186-510. Prohibited actions.**

The following acts or threats thereof are prohibited:

1. Physical punishment;
2. Striking a child, roughly handling or shaking a child, biting, pinching, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, or forced exercise;
3. Enclosure in a small, confined space or any space that the child cannot freely exit himself; however, this does not apply to the use of equipment such as cribs, play pens, high chairs, and safety gates when used for their intended purpose with children preschool age or younger;
4. Punishment by another child;
5. Withholding or forcing of food, water, or rest;
6. Verbal remarks to a child that are demeaning, intimidating, or humiliating;
7. Punishment for toileting accidents;
8. Punishment by applying unpleasant or harmful substances; and
9. Separation from the group so that the child is away from the hearing and vision of a staff member.

**PART VIII**

**DAILY CARE AND ACTIVITIES**

**22VAC40-186-520. General daily care and activities.**

A. There shall be a posted daily schedule that allows for flexibility as children's needs require. This schedule need not apply on field trip days or special events.

B. The center shall provide a variety of daily activities for each age group that are:

1. Age appropriate;
2. Based on the physical, social, emotional, and intellectual needs of the children that include: small and large motor activities, language and communication experiences, sensory experiences, art or music activities, and play acting or social living;
3. Reflective of the diversity of enrolled children's families, culture, and ethnic backgrounds; and
4. Enhance the total development of children.

C. Daily activities shall provide children:

1. Opportunities for alternating periods of indoor active and quiet play depending on the ages of the children;
2. Opportunities for vigorous outdoor play daily, depending upon the weather, the ages, and the health of the children;

3. Opportunities, time and space for resting or napping. Children who are unable to sleep shall be provided time and space for quiet play;

4. Opportunities to learn about themselves, others, and the world around them;

5. Opportunities to exercise initiative and develop independence in accordance with their ages;

6. Opportunities for curiosity and exploration; and

7. Opportunities for structured and unstructured play time and to participate in teacher-initiated and child-initiated learning activities.

D. The use of media such as television, videos, video games, and computers shall be:

1. Prohibited for children under two-years of age;

2. Limited to not more than a total of two hours, per child, per day, for children over the age of two years; and

3. Limited to programs, DVDs, tapes, websites, and software that are produced for children, and are age appropriate for children.

E. Other activities shall be available to children, at all times, during the use of media.

**22VAC40-186-530. Daily care and activities for infants and toddlers.**

A. There shall be a flexible daily schedule posted for infants and toddlers based on their individual needs.

B. Infants and toddlers shall be provided with opportunities to:

1. Interact with staff and other children in order to stimulate language development;

2. Play with a wide variety of safe, age-appropriate toys;

3. Receive individual attention from staff;

4. Reach, grasp, pull up, creep, crawl, and walk in a safe, clean, uncluttered area;

5. Explore outside the crib or other confining equipment multiple times each day;

6. Experience visual stimulation through nonverbal communication;

7. Experience appropriate auditory and sensory stimulation; and

8. Experience outdoor time if weather and air quality permit.

C. Care and interactions of infants and toddlers shall include:

1. Care by the same teacher on a regular basis, when possible;

2. Individual attention given to each child including playing, talking, cuddling, reading, and holding;

3. Responding promptly to children who are in emotional or physical distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and

4. For awake infants and toddlers, positive physical activity and positive verbal interaction with a teacher at 30 minute intervals or more frequently based on the individual child's needs.

D. An infant who is awake and unable to turn over by himself shall be placed on his stomach for a minimum of 30 minutes each day to facilitate upper body strength and to address misshapen head concerns.

E. Infants and toddlers, who are awake, shall not be confined for more than 30 consecutive minutes in one piece of equipment including: swings, high chairs, cribs, play pens, or other similar pieces of equipment.

F. Infants shall be protected from older children.

**22VAC40-186-540. Resting and sleeping infants.**

A. Infants shall be allowed to follow individual patterns of sleeping and eating.

B. Infants shall be placed on their backs for sleeping and resting unless otherwise ordered by a written statement signed by the child's physician or health care provider for treatment of a medical condition.

C. Sleeping, napping, and resting infants shall be checked in person every 15-20 minutes.

D. Infants who fall asleep on the floor shall be promptly moved to the infant's designated sleep area. An infant who falls asleep in a space other than the floor may remain in that space if comfortable and safe.

**22VAC40-186-550. Daily care and activities for toddlers, two year old children, and preschool age children.**

A. The daily schedule shall include opportunities for:

1. Meals and snacks as required by 22VAC40-186-580 A.

2. Outdoor activity, weather and air quality permitting, for at least:

a. Fifteen minutes per day or session if the center operates up to three hours per day or session;

b. Thirty minutes per day or session if the center operates between three and five hours per day or session; or

c. One hour per day or session if the center operates more than five hours per day or session.

3. Sleep or rest in an environment that provides subdued lighting, a low noise level, and freedom from distractions.

a. Centers operating five or more hours per day shall have a designated rest period for at least one hour but no more than two hours.

(1) Cribs, cots, beds, or rest mats shall be provided and used; and

(2) After the first 30 minutes, children not sleeping shall have the opportunity to engage in quiet activities.

b. A child who falls asleep in a place other than his designated sleeping location may remain in that space if staff determine the space is comfortable and safe.

**22VAC40-186-560. Daily activities for school-age children.**

A. Before or after school, the center shall provide food as specified in 22VAC40-186-580 A and an opportunity for children to do homework, projects, or hobbies in a suitable area.

B. In the afternoon, there shall be an opportunity for large motor activities at least 25% of the time.

B. On non-school days, the daily activity shall include opportunities for large motor activities at least 25% of the time; small motor activities; projects, hobbies, or homework in a suitable place; art or music activities; outdoor activity, weather and air quality permitting, for at least one hour per day; and food as specified in 22VAC40-186-580 A

Exception: Specialty camps are not required to meet the requirements of this subsection

**22VAC40-186-570. Daily care and activities for children with special needs.**

A. The center shall work with the parent to ensure that children with special needs receive the care and activity opportunities recommended in writing by a physician, psychologist, or other professional who has evaluated or treated the child.

1. Daily care and activities requirements must be documented and maintained in the child's record, and updated annually, or more frequently, as necessary.

2. Activities must integrate all children with or without special needs.

3. The center will adapt equipment and vary learning opportunities for children with special needs to ensure the care and activities occur within the standard classroom environment. Adaptive equipment may be provided by the parent.

B. For a child who cannot move without assistance, staff shall offer to change the place and position of the child at least every 30 minutes or more frequently depending on the individual child's needs.

## **PART IX**

### **CHILD NUTRITION AND FOOD SERVICES**

#### **22VAC40-186-580. General food service provisions.**

A. Meals and snacks shall be served in accordance with the times children are in care, which include:

1. For centers operating less than four consecutive hours, at least one snack shall be served.

2. For centers operating four to seven consecutive hours, at least one meal and one snack shall be served.

3. For centers operating seven to 12 consecutive hours, at least one meal and two snacks, or two meals and one snack shall be served.

4. For centers operating 12 to 16 consecutive hours, at least two meals and two snacks or three meals and one snack shall be served.

B. The center shall ensure that children arriving from a half-day, morning program, who have not yet eaten lunch, receive a lunch.

C. The center shall schedule snacks or meals so there is a period of at least 1-1/2 hours, but no more than three hours, between each meal or snack unless there is a scheduled rest or sleep period for children between the meals and snacks.

D. All foods and beverages provided by the center, shall be prepared, stored, transported, and served in clean and sanitary conditions.

E. Tables and high chair trays shall be sanitized before and after each use for feeding.

F. The center shall post, with parental approval, a list of children's food allergies, sensitivities, and dietary restrictions in both the food preparation and serving areas.

G. The center shall ensure that staff who prepare and serve food to children are aware of the food allergies, sensitivities, and dietary restrictions for each child in the assigned group. Staff shall not serve prohibited food to a child.

H. Food that is hard, round, small, thick and sticky, or smooth and slippery such as: whole hot dogs sliced into rounds, nuts, seeds, uncut grapes, uncut raw carrots, peanuts, chunks of peanut butter, hard candy, and popcorn, shall not be served to children three years of age or younger unless the food is prepared in a manner that will reduce the risk of choking. Hot dogs, grapes and carrots may be served if cut lengthwise, from end-to-end, multiple times and then cross cut into non-round pieces

I. During meal and snack times:

1. Children shall be allowed time to eat in an unhurried manner;

2. Children shall be encouraged to feed themselves; and

3. Staff shall sit with children during meal times, when possible.

J. Staff shall encourage but not force or require children to eat.

K. Food shall not be used as a reward or punishment.

L. No child shall be allowed to eat or drink while walking around.

M. The center shall make provisions for providing children on field trips with adequate food and water.

N. Perishable foods and beverages taken on field trips shall be stored in insulated containers with ice or cold packs.

O. When specialized feeding apparatus are needed the device(s) shall be used and cleaned according to the manufacturer's instructions.

**22VAC40-186-590. Center provided food service.**

A. When the center provides food, the following shall apply:

1. The center shall follow the most recent, age-appropriate nutritional requirements of the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).

2. The center must prepare or have on-hand, enough food to allow children second helpings of foods listed in the USDA child care food program meal patterns.

3. The center shall develop and post written menus showing all foods to be served during that week. The center shall date and retain these menus for six weeks. Substituted foods shall be posted daily on the menu and comply with USDA requirements for daily components.

4. When milk is served, the center shall provide only fluid milk. Powdered milk shall not be used except for cooking.

B. If a catering service is used, it shall be approved by the local health department. The center shall request and keep verification of the caterer's food permit.

**22VAC40-186-600. Food brought from home.**

A. The center shall provide extra food, or provisions to obtain food, for meals or snacks for a child who forgets to bring food from home or who brings an inadequate amount of food for a snack or meal.

B. Food or drink brought from a child's home for an individual child's use on a specific day shall be labeled with the child's name.

C. Food or drink brought from a child's home to be shared with other children shall not be served to children with food allergies, sensitivities, or dietary restrictions unless it complies with the child's special diet.

**22VAC40-186-610. Drinking water.**

A. A supply of drinking water shall always be available to each child and served in a safe and sanitary manner.

B. If portable water coolers are used, they shall be of cleanable construction, maintained in a cleaned condition, kept securely closed and designed so that water may be withdrawn from the container only by water tap or faucet.

C. Drinking water that is transported to outdoor sites shall be in closed containers.

**22VAC40-186-620. Oral hygiene.**

In centers where the children brush their teeth:

1. Adult supervision shall be provided to children while brushing their teeth;

2. Individual toothbrushes shall be available for each child and shall:

(a) Be labeled with the child's name;

(b) Be kept out of children's reach when not in use; and

(c) Be stored in a manner that prevents toothbrushes from touching each other during storage.

**22VAC40-186-630. Infant and toddler feeding requirements.**

A. High chairs, feeding tables, or other feeding equipment shall be used for children under 12 months who are not held while being fed.

B. Children using high chairs, feeding tables, or other feeding equipment shall:

1. Be supervised during snacks and meals; and

2. Be secured with the manufacturer's provided safety straps.

C. If a child is not able to sit upright and hold his own bottle, staff shall hold the child during bottle feeding. Bottles shall not be propped or used while the child is in his designated sleeping location.

D. A child may hold his bottle or cup:

1. If the child is seated; and

2. If the bottle or cup is made of unbreakable material or shatter resistant glass.

E. Pacifiers, bottles, and non-disposable drinking cups provided by the center or brought from home, shall be labeled for individual use and shall not be shared.

F. Infants shall be fed on demand or in accordance with the child's written feeding schedule. The feeding schedule shall include the brand of formula and be updated as necessary.

G. Baby food, infant formula, milk, or breast-milk brought from home for an individual child's use shall be:

1. Labeled with the child's name;

2. Labeled with the date of preparation or opening of the container;

3. Prepared according to the manufacturer's instructions;

4. Stored so that all nipples on bottles are protected;

5. Discarded or returned to the parent at the end of the day if portions are left over. Powdered formula and dry foods which are opened, but are not mixed, are not required to be returned at the end of each day.

H. A mother shall be permitted to breastfeed her child at the center.

I. Milk, formula or breast-milk, and infant foods shall be warmed under running warm tap water or by placing them in a container of water that is no warmer than 120° F. Bottles shall not be left in a container of water to warm for more than 5 minutes. Bottles and infant foods shall not be heated or warmed in a microwave.

J. If a slow-cooking device, such as a crock pot, is used for warming infant formula, breast-milk, or infant food, this slow-cooking device shall be out of children's reach, shall contain water at a temperature that does not exceed 120° F, and shall be emptied, sanitized, and refilled with fresh water daily. Hot plates are prohibited in infant rooms.

K. To prevent burns:

1. Heated bottles shall be mixed gently and the temperature tested before the contents are fed to children;

2. Heated baby food shall be stirred and tested for temperature before serving to children; and

3. Staff shall not hold an infant while removing a bottle or infant food from a slow-cooking device such as a crock pot.

L. Prepared baby food not consumed during a feeding may be used by that same infant later in the same day, provided that the food is not served out of the baby food jar and is dated and stored in the refrigerator; otherwise, the food shall be discarded or returned to the parent at the end of the day.

M. Formula or breast milk shall not remain unrefrigerated for more than two hours and may not be reheated.

N. Staff shall feed semisolid food with a spoon unless written instructions from the child's health care professional state differently.

O. Reusable bottles and nipples shall be reused only after they have been washed, rinsed, and sanitized; or if supplied by the child's parent, rinsed after use and returned to the parent.

P. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the center.

## **PART X** **PREVENTING THE SPREAD OF DISEASE**

### **22VAC40-186-640. Exclusion from group care.**

A. Unless otherwise approved by a child's health care professional, a child shall be excluded from the center if the child has:

1. A fever and behavior change. A fever means oral temperature over 101°F or armpit temperature over 100°F;
2. Diarrhea (more watery, less formed, more frequent stools not associated with a diet change or medication).
3. Recurrent vomiting (vomiting two or more times in 24 hours); or
4. Symptoms of a communicable disease listed in the Virginia Department of Health's current communicable disease chart.

B. If a child needs to be excluded according to subsection A of this section, the following shall apply:

1. The parents or designated emergency contact shall be contacted immediately so that arrangements can be made to remove the child from the center as soon as possible; and
2. The child shall remain in a designated area, shall be within sight and sound of a staff person at all times, and staff shall respond immediately to the child until the child leaves the center.

### **22VAC40-186-650. Disease outbreaks.**

The center shall immediately report an outbreak of disease as defined by the Virginia Board of Health. Such report shall be made by rapid means to the local health department.

### **22VAC40-186-660. Infection control measures.**

A. Washable toys and materials used by infants shall be cleaned and sanitized daily, or more often if necessary.

B. The following cloth items shall be washable: Stuffed animals, cloth dolls, and dress-up clothes; floor pillows shall be washable or have removable covers that are machine washable. The center shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows at least once a week or when soiled.

C. If water play tables or tubs are used they shall be cleaned and sanitized daily, and

D. When any surface toy or equipment has been in contact with body fluids, it shall be cleaned and sanitized immediately or restricted from use until cleaned and sanitized.

**22VAC40-186-670. Hand washing.**

A. Staff shall wash their hands with liquid soap and running water:

1. When hands are visibly dirty;
2. Before and after preparing and serving food;
3. Before and after feeding or helping children with feeding;
4. Before and after eating;
5. Before and after giving medication or applying a topical ointment or cream;
6. After toileting;
7. After contact with any body fluids;
8. After handling or caring for animals;
9. After handling raw eggs or meat;
10. After cleaning or handling the garbage; and
11. After diapering a child or assisting a child with toileting.

B. Staff shall ensure that children's hands are washed with liquid soap and running water or pre-moistened towelettes or wipes before and after eating.

C. Staff shall ensure that children's hands are washed with liquid soap and running water:

1. When their hands are visibly dirty;
2. After toileting or diapering;
3. After handling or caring for animals; and
4. After contact with any body fluids.

D. Until an infant is old enough to be safely raised to the sink and reach for the water, the infant's hands may be washed using:

1. Pre-moistened towelettes or wipes; or
2. The three-towel method that consists of three individually assigned cloth or disposable towels: one towel moistened with soap and water, one towel moistened with clear water for rinsing, and one towel to dry.

E. Pre-moistened towelettes, wipes, or liquid hand sanitizers shall not be a substitute for soap and running water, unless otherwise stated in this regulation or if running water is not available.

F. Washing routines and reminders for children and staff shall be posted in all hand washing areas.

**22VAC40-186-680. Diapering.**

A. The diapering area shall be accessible and within the building used by children.

B. There shall be sight and sound supervision for all children when a child is being diapered

C. Staff shall not leave a child unattended on the diapering surface.

D. Staff shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

E. During each diaper change, staff shall thoroughly clean the child's buttocks and genital area.

F. The diapering area shall contain the following:

1. A sink with running warm water;
2. Liquid soap, disposable towels and single use gloves;
3. The appropriate disposal container as required by subsection K of this section;

4. A leak-proof covered receptacle for soiled linens; and

5. A nonabsorbent surface. For children younger than three years, this surface shall be a changing table or countertop designated for changing and maintained in good repair and safe condition.

G. Diapers or pull-ups of children, except for infants, may be changed in the bathroom, but the required procedures for hand-washing and disposal of diapers or pull-ups must be followed when this is done.

H. The diapering surface shall be used only for diapering children. The surface shall be cleaned with soap and water and sanitized after each use.

I. Individual, disposable barriers may be used between each diaper change and shall cover all areas where the child's body comes in contact with the changing surface. If the changing surface becomes soiled when using individual, disposable barriers, the surface shall be cleaned and sanitized before another child is diapered.

J. Tables used for children's activities or meals shall not be used for changing diapers.

K. Disposable diapers that are soiled shall be disposed of in a leak-proof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.

L. When cloth diapers are used, a separate leak-proof storage system, as specified in this subsection K of this section, shall be used for each individual child.

M. The storage system containers shall be cleaned and disinfected daily.

N. All diaper-changing supplies shall be stored in an area inaccessible to children.

O. Staff shall document daily diaper changes for each child in care.

#### **22VAC40-186-690. Toilet training.**

A. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult-sized toilet with a platform or steps and adapter seat. There shall be sight and sound supervision for all children when a child is toilet training.

B. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use and located on non-carpeted areas when used.

C. The center shall develop and implement a written children's toilet-training policy that shall include:

1. Methods of toilet training; and

2. Introduction and use of appropriate training equipment and clothing.

D. Toilet training shall be relaxed and pressure free.

E. Children who are being toilet trained shall not be required to wear diapers unless specifically indicated in the center's toilet training policy.

F. Staff shall change children's clothing, training pants, or diapers promptly when they are wet or soiled, and shall check for wet or soiled clothing or diapers at least once every two hours.

#### **22VAC40-186-700. Animals.**

A. An animal present at the center, indoors or outdoors, shall be in good health and show no evidence of carrying any disease.

B. Dogs or cats, where allowed, shall be vaccinated for rabies and shall be treated for fleas, ticks, or worms as needed.

C. The center shall maintain documentation of the current rabies vaccination.

D. Animals that have shown aggressive behavior shall not be kept in the center or on the grounds.

E. Monkeys, ferrets, reptiles, amphibians, psittacine birds (birds of the parrot family), or wild or dangerous animals shall not be in areas accessible to children.

F. All animal excrement shall be removed promptly, disposed of properly, and, if indoors, the soiled area cleaned.

G. If a child is bitten by an animal while in care, the following procedures shall be followed:

1. The site of the bite shall be washed with soap and water;

2. Appropriate first aid shall be administered immediately including appropriate medical attention if necessary;

3. The child's parent and, if necessary, the local health department shall be notified immediately to report the animal bite incident; and

4. The incident shall be documented in the child record as required by 22VAC40-186-250 and a written report shall be given to the parent as required by 22VAC40-186-280.

## **PART XI**

### **MEDICATION ADMINISTRATION, TOPICAL SKIN PRODUCTS, AND FIRST AID SUPPLIES**

#### **22VAC40-186-710. General requirements for medication administration.**

A. Prescription and nonprescription medications shall be given to a child:

1. According to the center's written medication policies; and

2. Only with written authorization from the parent.

B. The parent's written authorization for medication shall expire or be renewed after 10 working days unless the requirements in subsection C of this section are met.

C. Long-term prescription and nonprescription drug use may be allowed with written authorization from the child's physician and parent, and shall be renewed based on the child's physician instructions.

D. Medication authorization shall be available to staff during the entire time it is effective.

E. When an authorization for medication expires, the parent shall be notified that the medication needs to be picked up within 14 days or the parent must renew the authorization.

#### **22VAC40-186-720. Prescription medication.**

The center may choose to administer prescription medication provided that:

1. The medication is administered by a staff member who meets the requirements in 22VAC40-186-230;

2. The center administers only those drugs that are dispensed from a pharmacy or health care provider and maintained in the original, labeled container; and

3. The center administers medications only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and route of administration.

#### **22VAC40-186-730. Non-prescription medication.**

A. The center may administer nonprescription medication provided the medication is:

1. Administered by a staff member who meets the requirements in 22VAC40-186-230;

2. Labeled with the child's name;

3. In the original container with the manufacturer's direction label attached; and

4. Given only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication unless otherwise designated by written physician's order.

B. Nonprescription medication shall not be used beyond the expiration date of the product.

**22VAC40-186-740. Storage of medication.**

A. Medications, including refrigerated and staff's personal medications, unless designated otherwise by a written physician's order, shall be kept in a locked place, using a safe locking method, that prevents access by children.

B. If a key is used, the key shall be inaccessible to the children.

C. When needed, medication shall be refrigerated.

**22VAC40-186-750. Medication records.**

The center shall keep a record of prescription and nonprescription medication given to children, which shall include the following:

1. Name of the child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The date and time the medication was administered to the child;
4. Name of the staff member administering the medication;
5. Any adverse reactions; and
6. Any medication administration error and action taken.

**22VAC40-186-760. Topical skin products.**

A. When topical skin products such as sunscreen, diaper ointment and lotion, oral teething medicine, and insect repellent are used, the following requirements shall be met:

1. Written parent authorization noting any known adverse reactions shall be obtained at least annually;
2. The product shall be in the original container and, if provided by the parent, labeled with the child's name;
3. Manufacturer's instructions for application shall be followed; and
4. Parents shall be informed immediately of any adverse reaction.

B. Caregivers without medication administration training may apply topical skin products unless the product is a prescription medication, in which case the storing and administration must meet prescription medication requirements of this regulation.

C. The product shall not be used beyond the expiration date.

D. Topical skin products, except those referenced in subsection E of this section, do not need to be kept locked, but shall be inaccessible to children.

E. Children five years of age and older may have access to hand sanitizers, liquid hand soaps, sunscreens, lip balms and hand lotions labeled "Keep out of reach of children."

F. Sunscreen shall have a minimum sunburn protection factor (SPF) of 15.

**PART XII**

**FIRST AID, EMERGENCY SUPPLIES AND  
EMERGENCY PREPAREDNESS AND RESPONSE**

**22VAC40-186-770. First aid and emergency supplies.**

A. The center shall have a minimum of one working flashlight, battery-powered or crank-operated, on each floor of each building that is used by children.

B. The center shall have a minimum of one working radio, battery-powered or crank-operated, in each building used by children and any camp location without a building.

C. The center shall have first aid supplies that are readily accessible (i) to staff, (ii) to outdoor play areas, (iii) while on field trips, and (iv) in vehicles when transporting children. The first aid supplies shall be inaccessible to children and include the following:

1. An ice pack or cooling agent; and

2. A first aid kit that contains at a minimum:

a. Scissors;

b. Tweezers;

c. Gauze pads;

d. Adhesive tape;

e. Adhesive bandages, assorted sizes;

f. Antiseptic cleaning solution or pads;

g. Operable digital thermometer;

h. One triangular bandage;

i. Single use gloves such as surgical or examination gloves;

j. In centers located more than one hour's travel time from a healthcare facility, activated charcoal preparation (to be used only on the direction of a physician or the center's local poison control center); and

k. First aid instructional manual.

#### **22VAC40-186-780. Emergency preparedness and response plan.**

A. The center shall have a written emergency preparedness and response plan developed in consultation with the local emergency manager, or the state or local fire official. The plan shall include:

1. Emergency evacuation and relocation procedures;

2. Shelter-in-place procedures; and

3. The most likely emergency scenarios including fire, severe storms, flooding, tornadoes, neighborhood violence, pandemic, and loss of utilities.

B. The center shall review the emergency preparedness and response plan at least annually and update as needed. Center shall document each review and update made to the emergency preparedness and response plan.

C. The emergency preparedness and response plan shall be available for immediate review by staff, parents, and the department during business hours.

D. Emergency evacuation and shelter-in-place diagrams shall be posted in conspicuous locations in each room used by children or staff. The diagrams shall identify the reader's location within the building, and shall show the exit paths and the locations of the fire extinguishers and fire alarm pulls.

#### **22VAC40-186-790. Evacuation and relocation procedures.**

Evacuation procedures shall include:

1. Methods to alert staff and emergency responders;

2. Designated primary and secondary routes out of the building;

3. Designated assembly point away from the building;

4. Designated relocation site;

5. Methods to ensure all children are evacuated from the building and, if necessary, moved to a relocation site;
6. Methods to account for all children at the assembly point or relocation site;
7. Methods to ensure continued supervision of children;
8. Methods to ensure essential documents, including emergency contact information, medications, and supplies are taken to the assembly point or relocation site;
9. Method of communication with parents and emergency responders after the evacuation or relocation; and
10. Methods to reunite children with their families.

**22VAC40-186-800. Shelter-in-place procedures.**

Shelter-in-place procedures shall include:

1. Methods to alert staff and emergency responders;
2. Designated safe locations within the center;
3. Designated primary and secondary routes to the safe locations;
4. Methods to ensure all children are moved to the safe locations;
5. Methods to account for all children at the safe locations;
6. Methods to ensure continued supervision of children;
7. Methods to ensure essential documents, including emergency contact information, and supplies are taken to the safe locations;
8. Method of communication with parents and emergency responders; and
9. Methods to reunite children with their families.

**22VAC40-186-810. Emergency response drills.**

A. Emergency evacuation procedures shall be practiced monthly with all staff and children in care, at varying times during the center's hours of operation.

B. Shelter-in-place procedures shall be practiced a minimum of twice per year, at varying times during the center's hours of operation.

C. Documentation shall be maintained of emergency evacuation and shelter-in-place drills that include:

1. Identity of the person conducting the drill;
2. The date and time of the drill;
3. The method used for notification of the drill;
4. The number of staff participating;
5. The number of children participating;
6. Any special conditions simulated;
7. The time it took to complete the drill;
8. Problems encountered, if any; and
9. For emergency evacuation drills only, weather conditions.

D. Records of emergency evacuation and shelter-in-place drills shall be maintained for one year.

E. The center shall notify the Department about its status of operation within 24 hours of a being affected by fire or natural or man-made disaster.

**PART XIII**  
**THERAPEUTIC AND SPECIAL NEEDS PROGRAMS**

**22VAC40-186-820. Enrollment procedures for therapeutic and special needs programs.**

Before the child's first day of attendance, there shall be personal communication between the director, or his designee, and the parent to determine:

1. The child's level of general functioning as related to physical, affective, emotional, cognitive and social skills required for participation; and
2. Any special medical procedures needed.

**22VAC40-186-830. Individual assessment plans for therapeutic and special needs programs.**

A. An individual assessment completed within six months before the child's attendance or 30 days after the first day of attendance shall be maintained for each child.

B. An individual assessment shall be reviewed and updated for each child no less than once every 12 months.

**22VAC40-186-840. Individual service, recreation, or treatment plans for therapeutic and special needs programs.**

A. An individual service, recreation, or treatment plan:

1. Shall be developed for each child by the director or his designee and primary staff responsible for plan implementation;
2. Shall be implemented within 60 days after the first day of the child's attendance.

B. The child's individual service, recreation, or treatment plan shall be developed, reviewed, and revised every three months and rewritten annually by the director or his designee and primary staff responsible for plan implementation. This shall be done in partnership with the parent, residential care provider or advocate.

C. A copy of the initial plan and subsequent or amended service, recreation, or treatment plans shall be maintained in the child's record and a copy given to the child's parent.

**22VAC40-186-850. Program director and lead teacher programmatic experience requirements for therapeutic and special needs programs.**

A. Programmatic experience, obtained in groups settings or one-on-one, and education requirements for program directors of therapeutic child day programs and special needs child day programs shall be in the care of children with special needs.

B. Lead teachers in therapeutic child day programs and special needs child day programs shall have at least three months of programmatic experience, obtained in groups settings or one-on-one, in the care of children with special needs.

**22VAC40-186-860. Annual training requirements for therapeutic and special needs program staff.**

For therapeutic child day programs and special needs child day programs, staff who work directly with children shall annually attend 24 clock hours of staff development activities. At least eight clock hours of this training shall be on topics related to the care of children with special needs.

**22VAC40-186-870. Staff orientation for therapeutic and special needs program staff.**

Before assuming job responsibilities, staff who work with children in therapeutic child day programs and special needs child day programs shall receive training in:

1. Universal precautions procedures;

2. Activity adaptations;
3. Medication administration;
4. Disability awareness and specific issues related to the children in care; and
5. Appropriate intervention strategies.

**22VAC40-186-880. Staff-to-child ratio requirements for therapeutic and special needs program staff.**

A. The following staff-to-child ratios are required in therapeutic child day programs for each grouping of children of preschool age or younger. These ratio requirements are based on the individual special needs of the children in care and shall be maintained at all times:

1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.
2. For children diagnosed as trainable mentally retarded (TMR) or with physical and sensory disabilities: one staff member to four children.
3. For children diagnosed as educable mentally retarded (EMR) or developmentally delayed or diagnosed with attention deficit/hyperactivity disorder (AD/HD): one staff member to five children.
4. For children diagnosed with specific learning disabilities: one staff member to six children.
5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.
6. For children diagnosed with an autism spectrum disorder, ratios shall be based on the needs of the children.

B. The following staff-to-child ratios are required in therapeutic child day programs for each grouping of school-age children. These ratio requirements are based on the individual special needs of the children in care and shall be maintained at all times:

1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.
2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities; attention deficit/hyperactivity disorder (AD/HD), or other health impairments: one staff member to five children.
3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to six children.
4. For children diagnosed with specific learning disabilities, or speech or language impairments: one staff member to eight children.
5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.
6. For children diagnosed with an autism spectrum disorder, ratios shall be based on the needs of the children.

**22VAC40-186-890. Daily activities for children in therapeutic and special needs programs.**

A. Daily activities shall be in accordance with the program's individual plan for each enrolled child.

B. For a child who cannot move without help, staff shall offer to change the places and position of the child at least every 30 minutes or more frequently depending on the child's individual needs.

C. Children who use wheelchairs shall be provided appropriate positioning equipment for use when activities require children to be out of their wheelchairs.

**22VAC40-186-900. Transportation for non-ambulatory children.**

A. For therapeutic child day programs and special needs child day programs providing transportation, non-ambulatory children shall be transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.

B. Wheelchairs shall be equipped with vehicle wheelchair-restraining devices and wheelchairs shall be securely fastened to the vehicle floor.

C. Arrangements of transport wheelchairs in a vehicle shall not impede access to exits.

D. For therapeutic child day programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading and transporting.

E. When 16 or more children are being transported; there shall be at least one staff member or adult volunteer besides the driver, for each group of 16.

F. For therapeutic child day programs and special needs child day programs, if a child has a known seizure disorder or neurological, genetic, or physiological disability causing increased medical risk, and that child is being transported, one staff member or adult who is not the driver and who is trained in CPR shall be present in the vehicle.

**PART XIV**

**EVENING AND OVERNIGHT CARE PROGRAMS**

**22VAC40-186-910. Evening and overnight care.**

A. For evening and overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

B. In addition to 22VAC40-186-370 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

C. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite gender, six years of age or older.

E. Camps may use bunk beds if children are at least eight years of age.

F. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

G. When bath towels are used, they shall be assigned for individual use.

H. Activities for children in evening and overnight care shall include, as time allows, age appropriate activities as required by 22VAC40-186-520 through 22VAC40-186-570.

I. Quiet activities shall be available immediately before bedtime.

J. Meals, snacks, drinking water and oral hygiene shall be provided according to the requirements in 22VAC40-186-580 through 22VAC40-186-620. If a child has not eaten supper prior to arrival at the center, the child shall be served supper.

K. For evening and overnight care, the ratio and supervision requirements set forth in 22VAC40-186-450 shall be maintained during rest and sleep periods